

LAB's Case Digest (April-June 2026)

This digest features various High Court cases on family law and procedure, published since the January – March 2026 Case Digest, which LAB found to be of interest. Each case write-up only focuses on points which LAB has found to be of interest and does not cover every issue that was considered in the case.

1. Division of matrimonial assets

1.1 WQY v WQZ [2026] SGHCF 9

Division of Matrimonial Assets, Care and Control, and Custody

Key Facts: In this case, the parties had two children, aged eight and six years respectively. They married on 26 January 2013, and the marriage lasted about 11 years. The wife started divorce proceedings in October 2023, and moved out of the matrimonial home with the children in March 2024. The interim judgment was granted on 6 March 2024. The district judge hearing the ancillary matters had ordered joint custody of the children and for the wife to have sole care and control, with access to the husband. The matrimonial assets had been divided in the ratio 55.7:44.3 in the wife's favour. The husband appealed. The High Court dismissed his appeal.

Key Points:

Care and control

On the care and control issue, the court was of the view that the district judge was not plainly wrong in deciding that:

- (a) there was stronger evidence of the wife's closer involvement as a caregiver, greater involvement in the children's school life, and her closer bond with the children. (The nature of this evidence was not specified in the judgment.)
- (b) she would not rely on the testimony of the domestic helper. The helper was solely employed by the husband and there was a potential conflict of interest.
- (c) the wife's caregiving plan was more structured and well considered than the husband's. This involved the younger child attending the same primary school as the older child, and for his routine to mirror the established routine of the older child. (The judgment does not provide details of the husband's caregiving plan.)
- (d) she would reject the husband's allegations of the wife's alienating behaviour—as the incident he cited (no details of which are set out in the judgment) did not support his case, and the police report he made was self-serving.
- (e) the wife had given up vaping—there was a raid by the Health Sciences Authority on her residence in July 2025, and no vaping items were found.
- (f) the parties had entered into an interim consent order on 6 March 2024 where the wife had sole care and control, which arrangement had been in place since this time—it was reasonable to consider the continuity of the arrangements for the children.

The focus of the High Court was on whether the lower court's reasoning was sound, rather than re-examining the factual details in detail.

If he did not get care and control, the husband wanted an extra hour of access to send the children to school in the morning and to pick them up from school in the afternoon during weekdays. The court agreed with the district judge that the husband's proposal was impractical, given the realities of the early morning rush during school days, and the children's differing school dismissal times, which would make daily coordination between the parties necessary. This might create unnecessary complications and tensions between the parties.

Matrimonial assets

Ownership of XXX Treasure

The husband argued that he only owned 60% of a business known as XXX Treasure, and not 100%, as the district judge had found. However, the business profile of XXX Treasure indicated the husband as the sole shareholder, despite there being an investment agreement listing two other parties as owners too, in exchange for them putting monies into the business. The court noted that the other two parties did not come forward to file affidavits in support of the husband, and the husband was not able to produce any other evidence to support his case, aside from screenshots of some messages between himself and the third parties (which in any event did not mention specifically that the third parties would be shareholders). The husband also had some corporate bank statements to show some incoming transfers marked as "investment" and outgoing transfers marked as payments, with handwritten notes that these were to the third parties.

However, it was not clear from the documents what these payments related to. The court noted that the husband's counsel had frankly admitted that the evidence was not clear, and that the figures did not correlate, saying it was “grateful to counsel for his frankness, in exercising his duty to the Court, even as he advocated as best as he could for his client”.

Alleged dissipation by wife

The husband alleged, among other things, that the wife had withdrawn about \$20,000 from their joint bank account, and that this was a dissipation of the matrimonial assets. However, the district judge had found that this sum constituted a reimbursement to the wife of the husband's share of child maintenance during a certain period, and hence would not be considered as dissipation. The High Court agreed.

The wife had made a loan of \$10,000 to one D in February 2022, which the court noted was about 11 months before the breakdown of the marriage (i.e. January 2023). Although the marriage was already deteriorating by February 2022, it did not indicate that divorce proceedings were imminent. Hence, this loan was not counted as dissipation.

Adverse inference

The husband wanted an adverse inference to be drawn against the wife, on the basis that she had valuable contents in her safe. However, he had no evidence to show what was in her safe. In addition, he had indicated earlier that the wife could retain all the assets in the safe.

The husband also alleged that the wife had failed to disclose assets in relation to her Central Depository Account and OCBC Securities Statements. However, the court noted that she had disclosed her statements for these. The husband had not taken out any discovery applications in relation to the disclosed documents, so it could not be said that the wife was hiding information in respect of this.

Division of the matrimonial pool

The district judge found that there were equal contributions to the mortgage payment for the matrimonial home from the parties' joint account. However, the husband claimed that he had contributed more (76.81:23.19 in the husband's favour), because he had contributed more to the joint account from which monies were taken to purchase the matrimonial property. However, there was only clear evidence that the contributions between the parties were unequal from January 2020 to August 2024—the contributions were equal before that. The parties had been married since 2013. The husband's 76.81:23.19 ratio did not take into account the parties' earlier respective contributions to the joint account. Also, the housing loan was disbursed in February 2019—hence there were about 11 months of mortgage payments drawn from the joint account at a time when parties had made equal contributions to the account. Moreover, other funds such as investment proceeds were deposited and comingled in the bank account—the husband had no explanation on how to account for these. The wife had also paid the monthly mortgage instalment from cash and her CPF, not just from the joint account. For these reasons, the court rejected the husband's argument that he had greater direct financial contributions than the wife.

Indirect contributions

The husband's position was that he had made more indirect financial contributions to the joint account (and hence the ratio for indirect financial contributions should be 70:30, in his favour), and that he was the primary caregiver of the children since their birth (and that the ratio for indirect non-financial contributions should be 60:40 in his favour).

The court disagreed. Firstly, the assessment of indirect contributions should not be broken down in such a manner. From the start of the marriage till around January 2020, the parties made equal indirect financial contributions to the family expenses (that is, for about three quarters of the marriage). The husband's position did not take this into account. Nor did he tender sufficient evidence to show that he made much more indirect financial contributions after January 2020. There was also ample evidence to support the district judge's finding that the wife was the primary caregiver of the children, rather than the husband.

Takeaways

- (a) The husband's appeal failed on all issues, because he could not back up his assertions with sufficient (or any) evidence, on all the issues. It is a basic point, but without evidence, claims do not hold any water.
- (b) Where the evidence is unclear (as in this case, where there were financial activities and transactions spanning 11 years of marriage), the court will use a broad brush approach, rather than do involved forensic accounting.

1.2 **Hajjah Noor Jehan bte Mohamed Ghouse v Nur Fairuz Magnus [2026] SGHC 83**

Contributing money to daughter's property, whether mother entitled to beneficial interest

Key Facts: This case involves an attempt by a divorcing wife to put the matrimonial home out of the reach of the husband on the basis that it belonged to her mother—but she did not succeed.

- A mother (the applicant in this case) and her daughter originally planned to buy a property together in late 2018. However, the mother withdrew her name from the purchase, leaving the daughter to buy the \$2.4 million property in her sole name. The mother explained she withdrew because she decided not to sell her existing HDB flat due to sentimental reasons and an undertaking she had given to HDB that she would not move out for five years (as her younger daughter had gotten a housing grant for her own flat, based on the fact that it would be near her mother's flat).
- However, the mother helped the daughter to buy her property, providing over \$1 million in total including \$450,000 for the initial purchase, monthly mortgage payments, and various other expenses. The mother created a handwritten note in January 2019 showing how the property proceeds should be divided if she died, giving herself 75% and her daughter 25%. In August 2024, mother and daughter entered into an agreement (drawn up by a lawyer) which stated that if the property were sold or refinanced (whether during the mother's lifetime or after her death), the daughter must repay the loan amount plus interest to the bank, and divide the profit/loss in proportion to each party's contribution to the property. This agreement did not acknowledge the mother had any beneficial ownership of the property, or grant her any beneficial ownership, and characterised the monies contributed by the mother as "loans".
- The daughter started divorce proceedings in September 2024. The mother filed this court application in October 2024, claiming she was entitled to a beneficial interest in the property proportional to her financial contributions. The question was whether the money provided was a loan, or it was intended to give her a beneficial interest in the property. The daughter consented to the application. The daughter's husband (the son-in-law) argued that there was no agreement to give the mother a beneficial interest in the property, and even if there was, it should be dismissed for illegality, as it was designed to avoid Additional Buyer's Stamp Duty.

Key Points:

- The court dismissed the mother's application.
- The daughter was the 100% beneficial owner of the property. The court declared that the daughter was personally liable to repay the loan to the mother upon sale of the property, but clarified this was a contractual debt, not an ownership interest. If the property became subject to matrimonial asset division, repayment to the mother should come only from the daughter's share of the sale proceeds. Reasons:
 - (a) No Resulting Trust: The court found the money advanced by the mother was genuinely a loan, not a gift or investment. Since the daughter provided consideration by undertaking to repay the loan, this was not a "voluntary payment" that would trigger a resulting trust. The formal loan agreement signed in August 2024 confirmed this characterization. The court held that this loan agreement, on its wording, superseded any earlier understandings and the handwritten agreement. In particular, there was an entire agreement clause in the loan agreement.
 - (b) No Common Intention: The court found insufficient evidence of a common intention that the mother would own part of the property. The handwritten note only dealt with distribution of sale proceeds after the mother's death, not present ownership. The August 2024 loan agreement explicitly described the arrangement as a loan without granting any ownership interest.
 - (c) No Detrimental Reliance: Even if there was a common intention, the mother had no detrimental reliance—her expenditure on the property in terms of renovations, furnishings, property maintenance payments etc could be explained by the loan agreement's terms promising repayment plus profit-sharing, and the work she did to run and maintain the property was conduct that could be reasonably expected of a matriarch living in a multi-generational household, even if there was no common intention that she would have a share of the property.
 - (d) Illegality: Since the court decided there was no resulting or constructive trust over the property, it did not have to decide the point on illegality. However, it noted that if the mother had beneficial ownership in the property, she would be liable for ABSD, since she already owned her own HDB flat. If she structured the purchase so she was not the legal owner but the beneficial owner, this would have allowed her to avoid paying ABSD. The Stamp Duties Act does not expressly prohibit such arrangements, so the trust in itself, if it existed, was not illegal, but it would have been created for an illegal purpose. However, the court

indicated that it would likely have applied proportionality analysis in such a scenario and allowed the claim because the Stamp Duties Act has sufficient mechanisms to recover unpaid ABSD i.e. penalties and upstamping. Denying the claim entirely might be disproportionate.

Takeaway:

It is extremely important whether a monetary contribution to a property is characterised as a loan – if it is, then the contributor will have no beneficial ownership in the property. A written agreement drawn up with legal advice is likely to supersede any informal understandings or records. Also, beneficial ownership comes with tax obligations—structuring a transaction to avoid these tax obligations is illegal.

1.3 Tan Huat Chan v Wu Lee Choo [2026] SGHC(A) 15

Intersection of family law consent orders and property partition law

Key Facts:

The parties in this case were former spouses who were married on 22 February 1977 and divorced in 2016. When they divorced, they entered into a Consent Order in respect of the matrimonial home. The clauses in the consent order included that: (a) the joint tenancy would be severed and apportioned equally between the parties; (b) the husband would pay all the expenses relating to the property (including property tax, insurance, maintenance), (c) if they both agreed to sell the property they would split the sale proceeds equally, and (d) if either died, their share would go to their daughter.

The parties continued living together at the property until the wife moved out in early 2021. In March 2025, the wife applied to court for an order to sell the property under section 18(2) of the Supreme Court of Judicature Act, which was granted by the High Court, subject to certain conditions. The conditions were that the wife was to purchase a new residential property in Singapore within six months and move into it within four months of receiving vacant possession; that within three months of completing the purchase, she was to execute a will leaving this new property and any unutilised net sale proceeds of the original property to the daughter, and she was not to revoke the gifts in any subsequent wills ("the conditions").

The husband appealed—he wanted the sale order set aside, on the basis that the parties intended their shares to go to their daughter upon death. Hence, neither party should be able to force a sale.

The appeal was dismissed. The Court of Appeal went further than this, and removed the conditions as well.

Key Points:

The court applied the principles of *Su Emmanuel v Emmanuel Priya Ethel Anne* [2016] 3 SLR 1222 for court-ordered property sales, considering factors such as the state of the parties' relationship, their ability to co-operate going forward, the state of the property, and the risk of the parties' relationship worsening if a sale was not ordered, and the potential prejudice to each

co-owner if the sale was ordered or not. A sale would generally not be ordered if it would go against a prior agreement between the co-owners on how the property was to be disposed of.

In this case, a sale was expedient because the parties were divorced and it was reasonable for them to live apart—it would generally be unusual for divorced parties to continue to live in the same property long-term. The wife had good reasons for wanting the sale, as her relationship with the husband had deteriorated further, she could not fully benefit from her ownership of the property while she had to live elsewhere, and she was 74 years old and wanted to buy an elderly-friendly accommodation for herself. There was also no clear term in the Consent Order prohibiting the sale of the property other than by mutual agreement. The clause about mutual agreement sales only stated what would happen if they both agreed to sell (the parties would keep the sale proceeds for themselves) —it did not restrict other methods of sale.

The conditions were wrongly imposed. The High Court had done so in an attempt to follow the Consent Order as closely as possible. However, the Court of Appeal was of the view that the Consent Order did not show that the parties intended the daughter to benefit from the property even if it was sold, not just if the parents died while still owning it.

1.4 XZC v XZD [2026] SGHCF 16

Short Marriage – Wife was a housewife but ANJ was applied (case being appealed)

Key Facts:

In this case, the Husband (Plaintiff) and Wife (Defendant) were married on 4 October 2016. Interim judgment was granted on 14 July 2022. Hence, the marriage lasted less than six years. The parties had one child ("C3"). She was eight years old at the time of the ancillary matters hearing. The Husband also had two adult children from a previous marriage (C1 and C2). After the marriage the Wife did not work, and was a homemaker. The parties employed 2 domestic helpers.

All issues pertaining to C3 (i.e. custody, care and control, access and maintenance) had been agreed, and the agreement was recorded in a consent order dated 6 October 2022. The parties were to have joint custody, with the Husband having care and control, the Wife being granted access, and the Husband would be solely responsible for maintaining C3. The outstanding issues were the division of matrimonial assets and wife maintenance.

The Husband had numerous bank accounts, some of which contained pre-marriage monies, and some of which contained monies earned and received during the marriage. During the course of the marriage he had also transferred monies from various accounts into various other accounts, including to new accounts opened during the marriage. He tried to exclude almost all of the assets he held either solely or with third parties on the basis that these were either acquired before the marriage or using his pre-marriage moneys. The court went through each asset in detail in the judgment.

Key Points:

Where a pre-marriage asset is partly paid off during the marriage, the source of the funds used for repayment matters

The Husband owned a property (the Stevens Close Property—which was not the matrimonial home) which he had purchased in 2013, before the marriage. He claimed that the mortgage payments made during the marriage for this property came entirely from pre-marriage moneys. The mortgage was paid during the marriage from 4 October 2016 to 21 June 2019. From October 2016 to April 2018 the Husband said a substantial portion of his income was used to support the family and he had very little left over to pay the mortgage. After April 2018, his only source of income was from his pre-marriage assets. Thus, the mortgage payments from 1 May 2018 to 22 June 2019 must have come entirely from his pre-marriage moneys.

The Wife argued that the source of funds was irrelevant—what mattered was the *timing* of the acquisition of the asset. Thus, as long as the asset was acquired during the marriage, it did not matter whether the moneys used to acquire it was earned during the marriage or were pre-marriage assets.

After going through the relevant authorities, the court set out the applicable legal principles as follows:

- (a) Where legal title to an asset is acquired during the marriage by applying either or both spouses' own money, the asset would be a matrimonial asset and there is no need for the court to look into the source of such "own money".
- (b) Where legal title to an asset is acquired before marriage and the asset is partially paid for during the marriage, the court will need to ask whether such part payment is made using money which would be a "quintessential matrimonial asset". Only the proportion of value of the asset which was paid for in this manner will be treated as part of the matrimonial pool.

The Stevens Close Property fell into category (b) above. Thus, the source of funds of the mortgage payments was important in determining whether it was a matrimonial asset. The court accepted, from an examination of the Husband's bank statements, that the mortgage payments made between October 2016 and April 2018 came from the Husband's pre-marriage moneys. However, the Husband had from this time withdrawn moneys from one bank account which contained his pre-marriage moneys and opened a new account into which moneys received during the marriage had also been deposited. This meant that his pre-marriage moneys were likely commingled with the moneys received during the marriage. Thus, the court could not find that the mortgage payments from April 2018 onwards were only paid for with pre-marriage moneys. Therefore, part of the Stevens Close Property was a matrimonial asset.

The court calculated a proportionate share of the Stevens Close Property's value to be included in the matrimonial asset pool, using a formula set out in the case of *USB v USA* [2020] 2 SLR 588 (i.e. $x/y \times N$ — x is the amount paid towards the acquisition of the asset during the marriage (in this case the total sum of mortgage payments made from after April 2018); y is the total amount paid towards the acquisition of the asset as at the date of the ancillary matters hearing

(the mortgage payments made before and during the marriage, up to the ancillary matters hearing); and N is the net value of the property as at the ancillary matters hearing date).

Similarly, the Husband had two insurance policies which had been purchased before the marriage, but premiums were paid during the marriage. Applying the *USB* formula, only the proportionate value acquired during the marriage through premium payments was included in the matrimonial asset pool.

Rental income earned during the marriage from a pre-marriage property is a matrimonial asset

The Husband argued that rental proceeds from the Stevens Close Property should be excluded from the matrimonial asset pool because they "[flow] inexorably" from the Stevens Close Property, which was a pre-marital asset.

The court rejected this argument:

- (a) the Stevens Close Property was partly a matrimonial asset. Thus, at least a portion of its rental proceeds had to be included in the matrimonial pool. In any case, the Husband could not separately identify the rental proceeds derived from the portion of the Stevens Close Property acquired during the marriage.
- (b) the legal principle is that income from rent or dividends received during the marriage are matrimonial assets even if the underlying asset which yielded that income or dividend is not itself a matrimonial asset. Despite rental income being popularly described as 'passive income', the enterprise of obtaining rent from immovable property is, in reality, not entirely an effortless one. Effort is required to advertise for or seek out tenants. Effort is required to maintain the rental property to keep it tenantable. Effort is also required to attend to various obligations which a landlord owes to a tenant as required by law or by the terms of the tenancy agreement. Finally, even the act of collecting rent (including chasing up on arrears) may require effort. Thus, rental income earned during the marriage from a pre-marriage asset qualifies as income earned through effort exerted during the marriage.
- (c) The Court of Appeal's definition of "quintessential matrimonial assets" in *USB* did not exclude income earned during the marriage from pre-marriage assets.

Commingled assets

The Husband had four sole UOB accounts. The Husband argued that only the matrimonial assets deposited into these accounts (namely, his salary and the sale proceeds from the matrimonial home) should be included in the matrimonial asset pool, with the rest excluded as pre-marriage assets. The court rejected this argument. The Husband's salary and the matrimonial home sale proceeds had become irreversibly commingled with the pre-marriage assets in the accounts such that the pre-marriage assets could no longer be identified and excluded from the matrimonial pool. The full amount in the UOB accounts was therefore included.

The Husband also tried to claim that the assets in various other bank account should be excluded, as they only held pre-marriage moneys. However, the court rejected his claims on

the basis that these accounts contained matrimonial assets commingled with pre-marriage moneys.

Other assets

The Husband held various assets together with his adult children. He had paid for them fully, which would normally mean that there would be a resulting trust in his favour. However, this was countered by the presumption of advancement in their favour.

(a) Tudor Close Property (held in C1's name): The Husband had acquired this property during the marriage (financing it entirely by himself), and he claimed that it was a gift to C1. There was a presumption of advancement to C1, given the parent-child relationship. However, the Wife successfully rebutted this presumption, since the parties and C3 had lived there without asking for C1's permission, the Husband evicted C1 and her husband after a quarrel and only allowed them to return after they reconciled, the Husband paid all the household expenses and repair costs, and the Husband and C3 had continued residing there after C1 had moved out. This indicated that the Husband retained control and dominion over the property, and was its true beneficial owner. Hence, the total value of this property was added to the matrimonial asset pool.

(b) Joint accounts with adult children (UOB 6779 (C2), UOB 8352 (C2), UOB 1094 (C1), Maybank 4526 (C2), Maybank 1173 (C2)): On the facts, the Wife failed to rebut the presumption of advancement in respect of all these accounts—hence half of the amounts in the accounts was excluded from the matrimonial asset pool.

The principle is that all of the parties' assets are included in the matrimonial pool by default unless proven otherwise.

(a) Husband's CDP Shares: As the Husband had acknowledged that he was unable to provide any evidence as to when the CDP shares were purchased, the court included the Husband's CDP Shares in the matrimonial asset pool.

(b) Husband's CPF monies: The court included the portion of the Husband's CPF account acquired during the marriage in the matrimonial pool. There was clear evidence (unlike for the CDP shares) on the amounts in the Husband's CPF account at the start of the marriage and at the end of the marriage, so that the increase in the net value of the Husband's CPF account could be easily calculated. This was an appropriate valuation of the portion of the account acquired during the marriage.

The *ANJ v ANK* [2015] 4 SLR 1043 structured approach applies to short single-income marriages

The court noted that the *USB* court had observed that the court in *TNL v TNK* [2017] 1 SLR 609 had held that "the structured approach does not apply to long single-income marriages". It then went on to hold that "the structured approach should continue to apply to short marriages", and rejected the argument that the court should incline towards equality of division in short marriages. The court was of the view that this clarified that the non-application of the structured approach was, as a general rule, meant only for long single-income marriages and not *all* single-

income marriages. Thus, the structured approach should apply to short marriages, which includes both short dual-income marriages and short single-income marriages. Since the marriage in this case was short, the ANJ approach would therefore apply. The total value of the matrimonial pool was \$22,920,805.82. The Husband was taken to have contributed directly to the entirety of this amount. The court also held that the Husband's indirect non-financial contributions also clearly outweighed those of the Wife—the Wife had been absent from the matrimonial home on three occasions (two weeks, three days, and two months respectively). On each occasion, she left without informing the Husband. The Wife also had little evidence of her indirect non-financial contributions, e.g. supervising and coordinating the maintenance and repair works for the matrimonial properties. The court held that the ratio of indirect contributions should be 80:20 in the Husband's favour.

The court gave a weighting of 60:40 for direct and indirect contributions, given that this was a short marriage, the parties received substantial help from two domestic helpers, and the pool of matrimonial assets for division was very large and all of it was contributed to solely by the Husband's effort.

Commingled pre-marriage assets - uplift given when dividing the matrimonial pool

Where there is an inference that a substantial portion of the matrimonial asset pool consists of the husband's pre-marriage assets, the court could give effect to this inference either by according greater weight to direct contributions or by adjusting the average ratio in the husband's favour. A clear inference could be drawn in the present case that a substantial amount of pre-marriage assets had been included in the matrimonial asset pool due to commingling with assets acquired during the marriage. In keeping with the guidance given in the case of *WQP v WQQ* [2024] 2 SLR 557, the court considered it appropriate to apply a 15% uplift to the weightage to be given to direct contributions. Thus, the weightage between direct and indirect contributions would be 75:25.

Final division

The final ratio of division was 95:5 in the Husband's favour. The Wife would therefore receive \$1,146,040.29 of the matrimonial asset pool. The Husband sought to offset from the amount he would have to transfer to her certain large sums he had allegedly transferred to her during the marriage ("the Disputed Sums"). The court rejected this request. The sums which the Wife used to purchase items for herself were already accounted for as these items were included in the matrimonial asset pool. If the Husband was seeking to use the present proceedings to enforce repayment of the Disputed Sums on the basis of an oral agreement or a trust, then given that the Wife had disputed her liability to repay, the present proceedings were not the proper forum for the court to embark on a trial of the Husband's disputed claim for repayment, and his remedy lay elsewhere.

Spousal Maintenance

An interim maintenance order of \$1,800 a month had been made in the Wife's favour, after assessing the Wife's reasonable monthly expenses and her income and earning capacity. The Wife sought a continuation of this maintenance sum of \$1,800 a month for a period of six

months following the final judgment. The Husband submitted that there should be no maintenance for the Wife. The court granted the Wife's request. The maintenance sum was reasonable, given the Husband's means, and it would afford the Wife time to manage her expenses after the division of the matrimonial assets.

Takeaways:

- (a) For pre-marriage assets partly paid during marriage: where an asset is *wholly* acquired during the marriage, the source of funds is irrelevant. Where an asset was acquired *before* the marriage but partly paid off during the marriage, the portion paid using money earned during the marriage will be included into the matrimonial asset pool.
- (b) All income earned during the marriage — including rent from pre-marriage properties — is a matrimonial asset, regardless of the source of the underlying asset.
- (c) ANJ approach applies to short single-income marriages.
- (d) Commingled pre-marriage assets will be included in the matrimonial asset pool—but can be taken into account by the court in adjusting the weightage given to direct contributions upwards.

1.5 XWV v XWW [2026] SGHCF 17

Setting aside of consent order to repay “debts owing” to spouse

Key Facts: In this case, the parties were married in August 2016. The wife commenced divorce proceedings on 1 September 2021. An interim judgment ("IJ") was granted on 29 September 2021. A consent order was recorded on the ancillary matters, and final judgment was entered on 31 December 2021. The key points of the relevant clauses are as follows:

- (a) the husband shall continue to retain the matrimonial flat in his sole name (clause 3(b)(i));
- (b) within one month from the date of the Final Judgment, the wife's name shall be removed as an occupier of the flat (clause 3(b)(ii));
- (c) the wife shall repay the husband a sum of \$86,000 being repayment of debts owing by the wife to the husband, by way of monthly instalments of \$2,000 for 43 months commencing from the date of the Final Judgment (clause 3(c)(i)) (the "Repayment Clause")
- (d) the parties shall retain all matrimonial assets in their sole names respectively and there shall be no further or other claims against each other (clause 3(c)(ii))

In respect of (c)—the wife had introduced the husband to a third party, described by the wife as a mutual friend and by the husband as the wife's then-employer. The husband stood as guarantor for the hire purchase of a car by the third party. There was evidence that it was the wife who had arranged for the husband to provide the guarantee, as she had contacted the finance company and furnished the husband's contact information and a copy of his identification card for that purpose. The third party later defaulted on the loan, and the finance company obtained a judgment against the husband for \$86,900.31 on 9 February 2021 ("the husband's guarantee liability").

At the time of the IJ, the wife was represented by counsel while the husband was not. It was the wife's counsel who had drafted the consent order which formed part of the IJ.

Setting aside application

On 4 March 2025, the wife filed an application seeking, amongst other things, that paragraphs 3(b) and 3(c) of the IJ be set aside, or in the alternative that paragraph 3(c)(i) be set aside. The district judge dismissed the application, and the wife appealed. In the appeal, the wife sought to set aside the Repayment Clause. The High Court dismissed the appeal.

Key Points

Repayment Clause part of a global settlement on the division of matrimonial assets

The wife argued that the Family Court had no power under s 112 of the Women's Charter (WC) to include the Repayment Clause in the IJ, even if recorded by the consent of the parties. The High Court rejected this argument. The Repayment Clause was one of several clauses recorded together in the IJ as part of a single, comprehensive settlement of the financial matters between the parties. Read together, the clauses (as set out in the first paragraph above) "bore the hallmarks of a global settlement as to the division of matrimonial assets". They addressed the full range of the parties' financial affairs, they were expressed as a package, and they concluded with a clean break provision. The Repayment Clause was not a standalone clause, representing a separate, independent debt that was tacked on to the parties' agreement on the division of the matrimonial assets. It was part of the package agreed on by the parties on how to divide the matrimonial assets, a mechanism to allocate the financial responsibilities between the parties in this regard.

The basis of the court's power to record the Repayment Clause was not merely that the obligation formed part of the global settlement, but that it was *necessary* to the settlement. The parties could not have arrived at the global settlement without resolving who should bear responsibility for the husband's guarantee liability. The fact that the Repayment Clause was expressed in the language of debt repayment did not alter its essential character as a component of a global settlement of the division of matrimonial assets. Hence, the recording of the Repayment Clause by consent of the parties fell within the court's power to divide the matrimonial assets under s 112 WC.

This was not a case where the court was invited to determine, within the s 112 proceedings, a debt recovery claim between the spouses. There was no disputed interspousal debt requiring adjudication in this case. The wife had assumed liability for the amount in question voluntarily, through her agreement to the consent order.

The wife had also argued that the Repayment Clause functioned as an order compelling her to reimburse the husband for a third party guarantee liability or to provide a civil indemnity in his favour, which fell outside the ambit of s 112 WC. The court rejected this argument, as the language of the Repayment Clause did not support this. Moreover, the husband had separately entered into a debt repayment scheme for a different and higher amount of \$104,468 in respect

of the judgment debt owed by him to the finance company, after the IJ was granted, demonstrating that there were two distinct obligations operating on separate legal footings.

Scope of s 112(2)(b) — "joint benefit"

In exercising its power under s 112(1), the court is under a duty to have regard to all the circumstances of the case, including "any debt owing or obligation incurred or undertaken by either party for their joint benefit or for the benefit of any child of the marriage" (s 112(2)(b) WC). The wife argued that the husband's guarantee liability did not fall under s 112(2)(b) because the hire purchase loan moneys were not applied towards the parties' joint benefit or for the benefit of their child. The court rejected this argument. First, the list of matters which the court must have regard to under s 112(2) WC was non-exhaustive. The fact that s 112(2)(b) referred to debts incurred for the joint benefit of the parties or any child of the marriage did not mean that only such debts may be considered by the court under s 112.

In any event, the husband's guarantee liability did fall within s 112(2)(b). A person may arrange a transaction that benefits a third party and simultaneously derive a benefit from doing so. If the transaction was purely for the benefit of her employer or a mutual friend of the parties, the wife had offered no explanation as to why she drew the husband into it as guarantor. The fact that she did so, and took active steps to facilitate his involvement, was consistent only with her having had a reason to do so that was in her own interests. The preservation of peace and goodwill within their marriage that came from the husband's accommodation of the wife's requests and interests was a benefit not just to the husband, but to the wife as well. The inference that the guarantee was arranged, at least in part, for the joint benefit of the parties was, in the court's judgment, the only reasonable one on the facts.

No materially false premise

The wife argued that the Repayment Clause should be set aside as it was entered upon a materially false premise—the court had been under the mistaken impression that there was a "genuine interspousal debt" owed by the wife to the husband, as this was how it was worded in the consent order. However, the court found that there was no material non-disclosure in this case that would justify a setting aside of the Repayment Clause. It was not clear from the wife's case what the material non-disclosure was, or how it would have led the court to make a substantially different order from what was in the consent order. The Repayment Clause recorded a promise by the wife to repay a specified sum to the husband, as part of the global settlement between them of the division of the matrimonial assets. If the wife had an issue with the language of the Repayment Clause, she could not make the husband responsible for this as he had played no part in the drafting. That was the language she adopted on the advice of her own solicitors.

Takeaway: If a divorce consent order includes a clause requiring one spouse to pay a specified sum of money to the other, the court will look at its substance and not its label (e.g. if it is described as a "debt" in the order). If the obligation to pay is a genuine part of the financial settlement between the parties, and not a standalone debt recovery claim, then it falls within the court's power under s 112 WC to deal with.

1.6 XHI v XHJ [2026] SGHCF 19

24 year marriage, two adult children, liquidated investments, expenditure after divorce proceedings started

Key Facts: In this case, the parties were married on 12 February 2000 and had two adult children. Sometime in 2008, the parties bought an HDB flat ("HDB Flat") in their joint names. However, they rented it out instead of staying in it, living with the Husband's mother instead. They only moved into the HDB flat around 2012. On or around 28 April 2015, the parties decoupled the joint ownership of the HDB Flat. The Wife became the sole legal owner of the HDB Flat, and the Husband took his name out—which meant that the Wife had to refund his CPF contributions made towards the HDB Flat, which came up to \$139,189.69. This refund was made by way of both CPF moneys (\$14,191.24) and cash (\$124,998.45). In May 2015, the parties purchased a condominium unit ("Condo Unit") in the Husband's sole name for \$1,606,730. The parties moved into the Condo Unit in or around August 2017, after completing renovations, and rented out the HDB Flat. The Husband moved out of the Condo Unit and into a rental property between January 2023 and June 2023, following an argument between the couple. However, they resolved their differences, and the Husband returned to stay at the Condo Unit. The reconciliation did not last long. On 29 September 2023, there was a physical altercation between the Husband and the Wife, during which the Wife sustained injuries and was admitted to hospital. After this, she applied for a Personal Protection Order ("PPO") against the Husband, which was granted by consent on 15 February 2024. On 25 October 2023, the Husband commenced divorce proceedings. Interim judgment was granted on 23 April 2024. The length of the marriage was therefore about 24 years.

Key Points

Liquidation of investments

The Husband had liquidated various investments ("the ETF holdings") shortly after commencing divorce proceedings, and also spent much of the money. The ETF holdings were worth about \$84,000 on the Wife's valuation, as at 4 June 2024. The Husband explained that this was to supplement his income, pay for additional expenses for rental and season parking, cover the Wife's share of the mortgage payments towards the Condo Unit, pay for property tax, and ang pow distribution during Chinese New Year ("the expenses"), and legal fees. The court noted that the ETF holdings had been liquidated for money to be spent, and that the liquidations fell within the period where divorce proceedings were imminent. As per the case of *TNL v TNK* [2017] 1 SLR 609, substantial sums expended by one spouse during, *inter alia*, the period in which divorce proceedings are imminent, must be returned to the matrimonial asset pool if they were part of the matrimonial assets and the other spouse had not agreed to those sums being expended.

The court was of the view that the Husband's ETF holdings liquidation to spend constituted expenditure of a substantial sum. The Husband had withdrawn more than \$66,000 during just the period of November 2023 to May 2024 (for which there was documentary evidence of the Husband's transaction history; there were liquidations after May 2024 for which there was no

documentary evidence), which was out of all proportion with the expenses. Moreover, the Husband continued to take home a salary of \$14,000 a month from which he could have paid for the expenses. As for the legal fees, a party who incurs legal fees on divorce and ancillary proceedings ought to use his own assets, rather than matrimonial assets, to pay for them first. Hence, the payment of legal fees could not justify depleting the matrimonial pool. The court held that the effect of *TNL v TNK* is to notionally add the value of the dissipated asset, and not the asset itself, to the pool of matrimonial assets. Therefore, the value of the ETF holdings should be calculated at the date these ETF holdings were liquidated, and not at the date of the ancillary matters hearing (which would factor in changes in the unit price of the holdings). However, the Husband had liquidated the ETF holdings in multiple instances. There was no evidence on the unit price of the various ETFs for liquidations occurring after May 2024. Hence, the exact sum withdrawn and spent by the Husband could not be accurately determined. However, the court found that a fair estimation of this sum would be to adopt the value of the Husband's initial ETF holdings as at 30 November 2023, which was to, in effect, treat all liquidations as having been carried out at the unit price as at this date. This gave a total value of about \$88,000.

Alleged trust

The Husband alleged that the funds amounting to \$503,882 in a SCB Wealth Saver Account in the Husband's name (which were subsequently transferred into an account in his mother's name) should not be included in the matrimonial asset pool, as he held this on trust for his mother and his friend, Mr B, both of whom had asked the Husband to help invest their money. Both the mother and Mr B had filed affidavits to support the Husband's position. However, the Husband had insufficient evidence to prove the existence of the investment arrangements as well as the trust. The mother had undergone cross-examination before the court on this issue, and in fact undermined the Husband's case with her evidence. The court identified multiple red flags, including a complete absence of documentation showing any communication on the alleged investments, and the low likelihood of the mother as an elderly person depositing large sums of cash into various ATMs to deposit money into the Husband's account. Moreover, there were inconsistencies between the deposits made and the investments made. Also, interest payments from the account were never returned to the mother. The inter-mingling of the mother's and Mr B's monies was also odd.

In view of the above, the court was unable to accept that these purported investment arrangements, and therefore any trust arising out of these investment arrangements, existed. Accordingly, the sum of \$503,882 was returned to the matrimonial asset pool as part of the Husband's assets. Most of the disputes over the other assets involve largely factual issues, and so will not be covered in this write-up. Some other issues of interest:

Valuation of the HDB Flat—without deducting resale levy

The court did not agree that the sum of the resale levy should be deducted from the value of the HDB Flat. The condition that triggers the resale levy is not the fact that the HDB Flat is sold, but rather the fact that a second subsidised flat is booked. Thus, the resale levy is a contingent liability that may never be triggered (for example, if the Wife purchased a private

property instead), and it would therefore be unfair to treat it as a certain deduction from the value of the Flat.

Cosmetic surgery expenses returned to matrimonial asset pool

The Wife had spent \$38,371.74 on cosmetic surgery between March 2024 and May 2024. Her position is that she did this in hope of preserving the marriage and fulfilling the Husband's desires (and she had been body-shamed by the Husband). The court was of the view that while the Wife's mental distress may have been genuine, this was not a run-of-the-mill expense, and divorce proceedings had commenced by then. The Husband would not have consented to such procedures being done. Hence, this sum was added back into the matrimonial asset pool.

Income tax payments outside the scope of *TNL v TNK*

The Wife had paid her income tax out of the parties' joint account. The court held that given that income tax is statutorily imposed and incurred every year, it would constitute a run-of-the-mill expense for a working spouse. Moreover, there is no speaking of a spouse "consenting" to payment of such a tax, which is statutorily imposed and mandatory. Accordingly, this brings income tax payments outside the scope of *TNL v TNK*. Moreover, if the Wife had not paid her income tax, it would be reflected as a liability to be deducted against the Wife's assets. In that sense, payment of income tax does not constitute an "asset" since the effect of payment is to convert what was a liability into a "net zero".

Rental income—not direct contributions

The Wife argued that the rental income earned from the HDB Flat in her sole name and paid towards the mortgage of the Condo Unit ought to be attributed solely to her. This was on the basis that the HDB Flat was her own asset - she had bought out the Husband's share when she returned his CPF monies used to purchase the Flat - and she had handled all the rental matters. The court rejected this argument. The refund to the Husband's CPF account was an administrative requirement imposed by the CPF Board and not a "purchase" as claimed by the Wife. The refund was not based on the market value of the HDB Flat at that point in time. In the circumstances, it would not have been within the parties' contemplation that the HDB Flat and any rental earned on it would be owned entirely by the Wife. Instead, the more plausible version of events was that the decoupling was really an administrative one structured around stamp duty and/or HDB rules considerations.

The court was also inclined to accept that the Husband had participated somewhat in the rental of the HDB Flat, such as cleaning the HDB Flat between tenancies, reviewing and preparing tenancy agreements, etc. Given the above, the rental income earned from the HDB Flat which went towards the payment of the mortgage of the Condo Unit ought to be split 50-50 between the Husband and the Wife.

Direct and indirect contributions and final division—effect of conduct

The Husband's net assets amounted to \$2,598,492. The Wife's net assets amounted to \$1,450,438.92. The total pool of matrimonial assets was therefore \$4,048,930.92.

The direct contributions ratio was 57.94:42.06 in favour of the Husband. The indirect contributions ratio was 40:60 in favour of the Wife. The Wife had been the children's primary caregiver, contributed more to the maintenance and upkeep of the household, worked full-time, contributed to the household expenses, including groceries and necessities, school fees, property tax and other fees, and had only employed a domestic helper for four years over this 24-year marriage.

The average percentage contributions were 48.97% (Husband) : 51.03% (Wife). Hence, the Wife would have \$2,066,169.45 from the matrimonial asset pool. The Husband had submitted that the Wife had negatively contributed to the marriage, with the bulk of his allegations pertaining to the Wife's conduct after divorce proceedings had commenced. For example, reducing her mortgage contributions from December 2023, refusing to allow him to stay in the HDB Flat, inappropriately targeting his mother's money, misrepresenting her financial contributions, making a complaint to the Accounting and Corporate Regulatory Authority and filing a Magistrate's Complaint against him. None of this rose to the level of fundamentally undermining the co-operative partnership of marriage, and hence the court did not take it into account in the division of the matrimonial assets. For completeness, the court also observed that the fact that a PPO was granted did not mean that the Wife had not contributed to the incident, whether through emotional attacks or otherwise. Indeed, the Husband had referred to a report by the Institute of Mental Health dated 2 January 2024 which stated that the Husband's physical violence towards the Wife was often related to her intense emotional dysregulation during their conflicts. The court said that this highlighted the complexity of the parties' relationship. Hence, the granting of a PPO, particularly one granted by consent, does not amount to a finding on the relative blameworthiness of the parties involved, and would be difficult to map coherently onto the questions of contributions to the marriage without really getting into the details of what happened during the marriage, which the court was not especially well-equipped to do. Hence, the PPO was not an independent factor which should skew the ratio further in the Wife's favour.

No Spousal Maintenance

The Wife sought a lump-sum payment of \$300,000 from the Husband for the "immense suffering" she endured during the marriage and for the "sustained physical and emotional torment inflicted by the Husband" which the Wife claimed had negatively impacted her career progression. The court did not order maintenance for the Wife, given that financial preservation is the reason for an order of maintenance and punitive considerations should not factor into the court's decision on whether to award maintenance. The Wife was employed, drawing a monthly salary of \$12,854.64, and had been granted a larger proportion of the matrimonial assets. This would allow her to maintain herself at a standard commensurate to the standard of living she enjoyed during the marriage.

Takeaways:

(a) Liquidating investments during divorce is treated the same way as spending cash—selling off ETFs or shares after divorce proceedings commence is caught by the *TNL v TNK* dissipation

principle — and the value added back to the pool is pegged to the date of liquidation, not the ancillary matters hearing.

(b) Paying your taxes does not deplete the matrimonial pool—income tax is a statutory obligation so it falls entirely outside the *TNL v TNK* framework.

(c) The HDB resale levy will not be deducted from the flat's value—this is because the levy is only triggered when a second subsidised flat is booked, not simply when the flat is sold. Contingent liabilities need a real prospect of crystallising before they affect the matrimonial asset pool.

2. Custody, Care and Control

2.1 CXR v CXQ [2026] SGHCF 12

Joint custody but having the final say in an impasse situation vs sole custody

Key Facts: In this case, the Mother (a Singapore citizen) and Father (a British national) were married in 2011. After the marriage, they resided in the UK, but relocated to Singapore in September 2012. They had one child, a boy, who was about 15 years old. The son suffered from numerous health conditions, including epilepsy, dyspraxia and attention deficit hyperactivity disorder. Over the past two years, the child's epileptic seizures had worsened in frequency as well as severity. The marriage broke down sometime around 2018. The Mother commenced divorce proceedings in February 2020, and an interim judgment was granted on 30 November 2020.

Orders were made in the ancillary matters, including those concerning the child (Order 26). Under Order 26, the parties had joint custody. However, in the event of an impasse pertaining to matters relating to the child's academic education arrangements for reading, writing and mathematics, the Mother may make the final decision. In the event of an impasse pertaining to matters relating to the child's extra-curricular arrangements and other therapy, including occupational and play therapy, the Father may make the final decision. The parties were to share care and control (Saturday to Wednesday for the Mother and Wednesday to Saturday for the Father). At the time these orders were made, both parties resided in Singapore. However, the Father relocated to the UK subsequently, while the child remained with the Mother in Singapore.

The Mother filed a variation application for Order 26. She wanted sole custody and care and control of the child, and supervised daily video access to the Father, amongst other things. The Father filed a cross variation application, asking for shared care and control of the child in the UK. (There were a number of adjourned hearings and interim orders made, which this write-up will not cover.)

Key Points:

The court varied Order 26, ordering that:

- (a) the parties should continue to have joint custody, but in the event of an impasse regarding the Child's healthcare, education arrangements, extra-curricular arrangements, or other therapy, the Mother may make the final decision.
- (b) the Mother have sole care and control of the child.
- (c) the Father be granted video access five times a week for up to 60 minutes per session, with the Mother remaining within earshot of the video session. The Father's physical access to the son was to be mutually arranged by both parties, such as during the child's school holidays in the UK. There would be liberty to apply, in case parties could not agree.

The court's reasons were that there was a material change in circumstances since Order 26 was made. The relationship between the parties had worsened significantly, which made it very difficult for them to co-operate on the child's matters. This was not tenable, especially in light of the complex and at times pressing care needs of the child.

- (a) The parties had commenced several legal actions against each other in Singapore: the Mother had sued the Father for defamation; each party had filed a Personal Protection Order application against the other; and the Mother had applied for enforcement of maintenance against the Father three times (two of which resulted in adverse orders against him, and one where he did not attend and a warrant of arrest was issued against him).
- (b) The Father said he was unwilling to read emails sent to him by the Mother, claiming they triggered him.
- (c) The child was supposed to have certain medical procedures in a UK hospital, but the Father refused to consent, and the Mother had to apply for the UK Court to intervene, to dispense with the Father's consent, so he could undergo the procedures. The Father also failed to return the child after his visit to the UK, in time for the start of school on 9 August 2024. The Mother had to travel to the UK to bring the child back, and also applied to the UK court to intervene and order that the child return to Singapore.
- (d) The Father's relocation to the UK would also make it harder for him to be involved in the child's extra-curricular arrangements and other therapy.

Therefore, it was in the child's welfare that the Mother should have the final say in any impasse situation, as per (a) above.

However, the court did not grant sole custody to the Mother. Sole custody orders are made only in exceptional circumstances. Hostility alone does not make joint custody unworkable. Joint custody enables both parents to remain involved in the child's life and requires consultation on important decisions. The court clarified that an order of joint custody with one parent having the final decision in impasse situations is not tantamount to an order for sole custody. This is because "custody" could encompass major decision-making in areas beyond healthcare, medical and education decisions—for example consent for a minor to get married. A joint custody order preserves both parents' responsibility in major, important matters, and requires the parent with the final say to discuss and work together with the other parent on the major decisions to be made for the child. Further, impasse provisions ought not to be made just

because there is some acrimony or difficulty with cooperation between the parties. They must be warranted by the specific facts of the case—in this case, the grave deterioration of the parties' ability to co-operate (and only seeming able to solve disputes by litigation), and the fact that they were in different countries.

The Mother was granted sole care and control as the court found that the child's welfare was better served by remaining in Singapore, where he had established medical care, educational support systems, and family support. He had deep roots in Singapore as he had lived here since he was nine months old. The Father had failed to demonstrate how the child's complex medical and educational needs would be adequately met in the UK.

Takeaway: Joint custody with impasse situations is not the same as sole custody. It is not something to be resorted to lightly, but only if necessary. The intention is to preserve the involvement of the parent without the final say in the child's life, while ensuring that critical decisions for the child (especially one with complex needs) do not get held up by a parental deadlock.

3. Judicial Separation

3.1 XTR v XTQ [2026] SGHCF 11

Key Facts:

Parties married in 2004 and became Singapore citizens in 2008. In June 2018, the parties agreed to a three-month trial separation. There was a dispute as to whether the parties had continued their marital relationship after this. In 2023, the Husband moved to the US. Between January and August 2023, while giving the Wife the impression that he was assisting with her US visa application so that she could join him there, the Husband secretly filed for divorce in India in August 2023, and continued to engage the Wife on the visa application even after this (“the visa deception”).

The Wife only discovered the Indian proceedings months later. The Wife was granted an order for judicial separation in Singapore by the District Court, based on the Husband's unreasonable behaviour. The Husband appealed. The High Court dismissed the appeal.

Key Points:

- The legal threshold for both judicial separation and divorce is the same—the plaintiff bears the burden of proving on a balance of probabilities that one of the five facts in s 95(3) of the Women's Charter 1961 (2020 Rev Ed) is satisfied. The only difference is that for judicial separation, the court need not find that the marriage has broken down irretrievably.
- The parties had not in fact separated in 2018, as the Husband had alleged, since the parties' communications from 2018 to 2023 were consistent with a continuing marital relationship – the Husband regularly apologised for lapses in communication, updated the Wife on significant financial matters, and did not correct her when she referred to herself as his "wife" on multiple occasions.

- There is no "subjective" requirement to prove the plaintiff finds it “intolerable” to live with the defendant under the “unreasonable behaviour” ground. The test is purely objective – whether the plaintiff can reasonably be expected to live with the defendant – albeit one that takes into account the particular personalities of the parties and the full history of their marital relationship.
- The Husband's cumulative secretive conduct – comprising the visa deception, his refusal to disclose his US address, his cancellation of a life insurance policy of which the Wife was the beneficiary without informing her, and his provision of the Wife's contact details to moneylending agencies without her knowledge – was such that the Wife could not reasonably be expected to live with him.

4. Probate and Administration

4.1 Yap Siu Cheng v Yap Sui Cheng Wendy and another [2026] SGHC 71

Executor's Duties to Account and Make Inquiries

Key Facts:

In this case, the claimant was the sister of the two defendants. Their mother had passed away in June 2022, and the defendants had been appointed as executors of the mother's estate under her will. (The father had passed away earlier, in June 2019, leaving his assets (aside from a property in Indonesia) to the mother as the sole beneficiary.) Under the terms of the mother's will, all her property was to be sold, and the proceeds divided equally among the three sisters. The defendants filed for grant of probate of the mother's will, and subsequently filed the Schedule of Assets ("SOA"). Probate was granted in July 2024.

The claimant wanted the defendants to answer questions in relation to the SOA, on the basis that the defendants owed her a fiduciary duty. She alleged that they had breached their duties as executors by failing to make sufficient inquiry to identify the assets of the mother's estate. She also claimed that a certain vehicle was held by the second defendant on trust for the father and/or mother during their lifetimes, and hence this should be listed in the SOA, as it formed part of the mother's estate. This write up will focus on the first claim, as the second claim is largely factual.

The matter went for a trial, with cross-examination of all parties. The court dismissed the claimant's claims.

Key Points:

The key legal principles are:

- (a) The executor of a will has the duty to keep proper accounts of the administration of the testator's estate and to furnish such accounts to the beneficiaries under the will as requested. The beneficiaries need not allege any breach of fiduciary duty to be entitled to be furnished with such accounts.

- (b) This duty to furnish accounts is continuous and on demand, and in addition to the requirement that an executor is to submit full accounts to the beneficiaries for approval before winding up the administration of the estate and distributing its assets.
- (c) The purpose of the accounts is to provide information on the current status of the estate, and a means of ascertaining if there has been maladministration of the estate. The accounts should show the moneys and assets received by the executor (what assets comprised the estate at the time of the testator's death), and how he has dealt with those moneys and assets.
- (d) Whether an executor has complied with his duty to account is a fact-sensitive inquiry in each case—and the court may decline to make an order for an account if it would be oppressive for the executor to do so, or if there is some other good reason not to do so.
- (e) The executor also has a duty to make sufficient inquiry to identify the assets comprising the estate. What is sufficient inquiry will depend on what is reasonable in all the circumstances of the case, taking into consideration the value and type of asset, the nature and extent of inquiries already made, and the cost and practicality of making further inquiries.

Claimant's questions

The claimant's questions were about what might or should be part of the mother's estate, not about what the mother's estate comprised at the time of her death. Examples:

(a) Safe deposit box and safe

In relation to a certain safe deposit box, the claimant wanted the defendants to answer her question on whether there were any other items belonging to the father (aside from the items already listed in the SOA), and the father's personal briefcase, after he passed away. She also asked whether the mother kept any items in a particular safe, aside from what had already been listed in the SOA, during the mother's lifetime (regardless of whether such items had any monetary value). The court was of the view that the defendants' duty to account did not require them to answer these questions, which were not about the estate assets actually received by the defendants as executors following the mother's passing. Also, their duty to inquire into the mother's estate at the time of her passing would not reasonably extend to answering for the father's purported belongings at the time of his passing three years earlier. There was no evidence to suggest that there were any other assets in the safe and safe deposit box aside from what had already been declared in the SOA. There was no need for executors to account for speculative items.

(b) Bank accounts

The claimant had questions on various bank accounts. For example, she produced a cheque issued by the father in 2008 from a Citibank account, and another cheque from a JP Morgan account issued in 2009, years before the father's death. These accounts were not listed in the SOA. The defendants provided proof that the JP Morgan account had been closed before the father's death. As for the Citibank account, the claimant was unable to show that it was still in

existence at the time of the father's death. The court held that was no need for executors to investigate decades-old closed accounts or explain historical transactions.

(c) Household items

The claimant had questions on the items in the family home. The defendants had engaged valuers to inspect and value the household contents in the family home for probate purposes, and the valuers had issued their report which listed all the assets and their value. They had not photographed and valued each individual item, but in groups, e.g. "glassware", which comprised various similar items, which were valued as a group. The claimant's position was that each item should have been photographed and valued individually. The court disagreed. It would be oppressive to make the defendants do this, and besides, the claimant could herself access the family home anytime she wanted and make her own inventory. There was no reason to think that the valuers had excluded or overlooked any item of market value.

(d) Missing jewellery

The claimant alleged that the mother had 4 jewellery items that did not appear in the SOA and asked the defendants for details on the whereabouts of these items. However, she could not provide any evidence to show that these still existed at the time of the mother's death. The defendants had searched extensively for them—neither they nor the valuers had come across them. The court held that the defendants did not have to answer the questions on these items.

Conclusion

Essentially, the questions were ‘fishing expeditions’ seeking information about assets of which there was no (or insufficient) proof of their existence at the time of the mother's death. The defendants had already provided comprehensive accounts through professional valuations, bank statements, and detailed asset schedules. Requiring more detailed responses would be oppressive given the extensive documentation already provided. The court also held that the defendants had already provided extensive information during the court proceedings, so no further accounting would be necessary.

The takeaway is that beneficiaries cannot use the accounting process as a fishing expedition, and that professional valuations and comprehensive documentation (including that done for and during the litigation process) can satisfy the duty to account.

5. Mental Capacity

5.1 YET v YEU [2026] SGHCF 18

Mental Capacity - Expunging allegations against donee, in application to remove donee

Key Facts:

In this case, the appellant (A) and the respondent (R) were brothers. Their father (P) executed a Lasting Power of Attorney (“LPA”) on 19 January 2016, appointing both A and R as co-donees. In November 2023, R commenced FC/OSM 389/2023 ("OSM 389"). He wanted to revoke the LPA in relation to A, on the basis that A had misused and/or misappropriated P's

monies and thus engaged in conduct against P's best interests and contravening A's authority as co-donor. At that time, R's case was premised on P having mental capacity to execute his LPA on 19 January 2016. However, R later sought and was granted permission to amend OSM 389 to seek revocation of the LPA on the ground that P lacked mental capacity at the time P's LPA was executed. The judgment does not specify when P actually lost mental capacity. This was a live issue, to be determined in OSM 389.

The Misuse Allegations

In R's affidavits filed in OSM 389, R alleged that A had taken, kept or used P's monies from: (a) accounts belonging to P; (b) accounts jointly owned by P and A; and (c) accounts jointly owned by P, A and R, which were meant to safeguard P's monies. The allegations pertained to events taking place before the LPA was executed ("the Misuse Allegations").

The scale of the alleged transfers was substantial. There was a significantly large sum of approximately \$2,243,506.42 of P's money that was transferred to A or to a joint account with A. Apart from P's ownership of his landed home and his 50% tenancy-in-common interest in a condominium, P's assets were all held in cash and shares. A's position is that between 25 June 2014 and 18 January 2016, P had either gifted the monies to him or expressly permitted him to use the monies in the joint accounts. On or around 12 May 2015, P had executed a handwritten note dated 12 May 2015, stating that he was leaving his property to A. The mother of A and R filed an affidavit on 15 July 2024, to testify that A had taken care of P before he became sick, that P loved A most out of their four children, and that P trusted A and would let him use the money that they shared in their joint account.

R argued the transfers were completely out of character for P. R provided evidence that P was not in the habit of giving large sums of money to any of his children. When P's mind was still sharp and lucid, he had never once made wholesale gifts of six or seven-figure sums to his family members. On the occasions when P did transfer funds to his children, he typically kept detailed written records of the date, purpose and quantum of each transfer, and would typically mention such transfers to his family members. R also gave evidence of P's fastidious record-keeping for monies that he had passed to A. Further, P had never mentioned such large gifts to his other family members, including to R or his sister who both lived with P, or recorded them in any of his detailed diaries or records.

The Strike-Out Application

A applied to strike out portions of R's affidavits filed in OSM 389 relating to the Misuse Allegations. The application was made pursuant to r 647 of the Family Justice Rules 2014, on the basis that the Misuse Allegations were irrelevant, scandalous or otherwise oppressive. The District Judge had declined to strike out those portions of R's affidavits. A appealed.

The High Court dismissed the appeal.

Key Points:

Relevance of Misuse Allegations to P's mental capacity

Parties agreed that the Family Court had no jurisdiction to determine if the past transfers of P's assets to a donee were valid, as such transfers fell outside the scope of the relevant provisions of the Supreme Court of Judicature Act. There was no contention that any written law conferred such jurisdiction on the Family Division of the High Court. Instead, such matters should be the subject of a civil action by P's representatives in the General Division in the High Court.

A court should only expunge materials in an affidavit if it can be shown that the impugned materials are clearly irrelevant or relate to unsustainable allegations. Even assertions of dishonesty and impropriety are not scandalous if they are relevant to the issues at trial. The question is whether the Misuse Allegations were relevant to OSM 389, as opposed to the issue of the validity of the past transfers of P's assets to A.

A donor's awareness of his financial circumstances is a relevant factor in determining the mental capacity of a donor.

In this regard, there was a medical report on P's mental state by one Dr Ong, on 19 January 2016. She had certified him with the mental capacity to sign the LPA. However, from Dr Ong's report and her medical notes, Dr Ong had accepted P's description of his property at face value, without verification from the donees who were present. Dr Ong did not ask how P wished to use his monies for the rest of his life, or whether P had made any large disposals or gifts recently. This meant that Dr Ong did not know of A's claims to practically all of P's cash and shares. Most critically, Dr Ong did not know that, merely one day before Dr Ong assessed P, there was a transfer of \$510,721.09 of P's money from a joint account held by P and A, to A's personal bank account. Dr Ong therefore had no chance to ask P whether he was aware of the transfers, and what he understood of such transfers and gifts. P's answers would have been important additional material for a holistic and objective assessment. Without such information, it was unsafe to place too much weight on Dr Ong's medical report. If the Misuse Allegations were expunged, R would not be able to examine Dr Ong on the relevance of the transfers, and how these would impact Dr Ong's assessment.

The Misuse Allegations were therefore directly relevant to testing Dr Ong's assessment, and R should be allowed to examine Dr Ong on this. Even on the assumption that P did gift A the monies or allow A to freely use it, they could affect Dr Ong's assessment of whether P understood or appreciated the full consequences of his decision, since it was so out of character for P and inconsistent with his past behaviour.

Conduct contravening donee's authority—before signing of LPA:

The court may revoke an LPA under section 17(3)(b)(ii) of the Mental Capacity Act, if the donee:

...engages or has engaged in conduct that contravenes the donee's authority or that is not in P's best interests (whether or not the donee is acting under a lasting power of attorney)...

Parties agreed that events arising before the signing of the LPA would not be relevant to the limb of "conduct that contravenes the donee's authority", since before the LPA was signed, the donee would not have any authority.

Events arising before the signing of the LPA would also not be relevant in assessing conduct under the second limb of "not in P's best interests". This is because over the course of the history of a family, a family member may have engaged in conduct that is not in the best interest of the donor. A donor may nevertheless choose to appoint that family member as a donee, during the time when the donor has mental capacity. To allow conduct prior to the execution of the LPA to be relied on to revoke the LPA, would undermine the choice of the donor.

The Misuse Allegations were, for this reason, not relevant to R's second ground in OSM 389, which sought revocation of A's appointment as a donee under the LPA on the basis that A had engaged in conduct that contravened the donee's authority, and/or that was not in P's best interests.

Neutral Statement Proposal

A proposed replacing the Misuse Allegations with a neutral factual statement listing only the transactions made before the execution of the LPA, without either party's characterisations of the transactions. The court rejected this. The context provided by the Misuse Allegations would be useful to understanding the positions taken by A and R, and this would be lost if the neutral statement was substituted in the place of the Misuse Allegations. The trial judge could control the proceedings, including the cross-examination of Dr Ong.

Takeaway: Pre-LPA conduct cannot be used as reasons to support a revocation application under s 17(3)(b)(ii) of the Mental Capacity Act — since a donor with capacity is taken to have chosen his donee knowingly — but can be used as evidence to challenge the reliability of the medical assessor's capacity assessment.