

NOMINAL MAINTENANCE – PRINCIPLED OR INCONSEQUENTIAL?

[2025] SAL Prac 27

When nominal spousal maintenance is ordered upon the conclusion of divorce proceedings, it preserves the wife’s right for maintenance in the future, should the need arise. This article examines the common criticisms of nominal maintenance and takes a closer look into whether nominal maintenance remains necessary and relevant today. The author suggests clearer judicial guidance on when nominal maintenance ought to be ordered, and to balance both parties’ interests when making such orders.

FOONG Ke Hui
LLB (King’s College London);
Advocate and Solicitor (Singapore);
Community Law Advocate, Pro Bono SG.

I. Introduction

1 “A sum as inconsequential in substance as it is in appearance.”¹ This was how a High Court judge recently described a nominal maintenance order awarded in favour of a wife in divorce proceedings. Nominal maintenance, or what some may know as “\$1 maintenance”, is a small, periodic payment that the husband may be ordered to pay the wife after divorce proceedings conclude. The wife is entitled to apply to vary this amount upwards in the future when the need arises.

2 The issue of nominal maintenance was recently in the media spotlight in light of the forceful *dictum* made in the High Court in *XFN v XFO*² (“*XFN*”) quoted above. It begs the question –

1 *XFN v XFO* [2025] SGHCF 29 at [22].

2 [2025] SGHCF 29.

are nominal maintenance orders still relevant and necessary today? This article will first look at the origin and rationale of nominal maintenance, as well as the Court of Appeal's position on such orders. Part III of the article will then consider the possible criticisms against nominal maintenance orders and assess whether the purpose of nominal maintenance remains in line with other aims in matrimonial proceedings such as the aspiration for a clean break and self-sufficiency post-divorce. In Part IV, this author proposes two ways in which this area can be improved to address the criticisms and balance the rights of both the former husband and former wife.

II. Origin and rationale behind nominal maintenance

3 During matrimonial proceedings, the wife is entitled to seek maintenance from the husband under s 113 of the Women's Charter 1961³ ("WC").⁴ The court in deciding this is faced with three possibilities: (a) an order for no maintenance; (b) an order for substantial maintenance; or (c) an order for nominal maintenance, usually for an amount as low as S\$1 monthly.

4 The purpose of ordering nominal maintenance is to preserve the wife's right for maintenance in the future after divorce proceedings have concluded, should the need arise. In *Tan Bee Giok v Loh Kum Yong*,⁵ the Court of Appeal noted that if an order was made during divorce proceedings refusing the wife any maintenance, she is not entitled thereafter to make a fresh application.⁶ The provision that enables a former wife to seek maintenance again is through a variation application under s 118 of the WC:

3 2020 Rev Ed.

4 Although this provision also allows maintenance applications by an incapacitated husband from the wife, this article will focus solely on maintenance due to the wife from the husband due to the limited case law relating to the former and the distinct eligibility conditions for such applications (refer to s 2 of the Women's Charter 1961 (2020 Rev Ed) for the definitions of "incapacitated former husband" and "incapacitated husband").

5 [1996] 3 SLR(R) 605.

6 *Tan Bee Giok v Loh Kum Yong* [1996] 3 SLR(R) 605 at [14]–[15].

Power of court to vary orders for maintenance

118. The court may at any time vary or rescind any *subsisting* order for maintenance, whether secured or unsecured, on the application of the person in whose favour or of the person against whom the order was made, or, in respect of secured maintenance, of the legal personal representatives of the latter, where it is satisfied that the order was based on any misrepresentation or mistake of fact or where there has been any material change in the circumstances.

[emphasis added]

5 For a variation application to be possible, the former wife will require a “subsisting” order for maintenance for the court to vary. Such an interpretation was adopted from the dated English case of *Mills v Mills*.⁷ Borrowing the language used by Sir Wilfrid Greene MR, the ex-wife “must find a peg upon which ... [she] can hang” subsequent applications, and this “peg” could be provided by making an order for periodic maintenance in a nominal sum, which order would remain in force and be susceptible of variation.⁸

6 The need for nominal maintenance was re-affirmed in the Court of Appeal case of *APE v APF*⁹ (“*APE(CA)*”). The Court of Appeal affirmed the principle laid down in *Tan Bee Giok v Loh Kum Yong* as good law, and reiterated that if a court wished to preserve the wife’s legal right to maintenance for the future, the correct order to make would be one for nominal maintenance. The Court of Appeal further lent support to this approach, highlighting that “it is undergirded by a substantive conceptual and principled basis which goes beyond the mere (and literal figure)” [emphasis in original omitted].¹⁰

7 It would seem from the above that the law on nominal maintenance seems largely settled, with two Court of Appeal cases affirming the need for and purpose of nominal maintenance.

7 [1940] 1 P 124.

8 *Mills v Mills* [1940] 1 P 124 at 134.

9 [2015] 5 SLR 783.

10 *APE v APF* [2015] 5 SLR 783 at [10].

However, as will be discussed in the next part, the relevance of nominal maintenance orders ought to be critically examined.

III. Criticisms of nominal maintenance

A. *Criticism (1) – former wife can make fresh application under s 113(1)(b) of Women’s Charter 1961 even if no maintenance was ordered at divorce*

8 One argument against ordering nominal maintenance is that it is unnecessary. In *XFN*, the learned Justice Choo Han Teck noted that the wording of s 113(1) of the WC is wide enough to allow the court to order a man to pay maintenance to his former wife after divorce proceedings are concluded, even if no order for nominal maintenance was made during the divorce. Section 113(1) provides:

Power of court to order maintenance

113.—(1) The court may order a man to pay maintenance to his wife or former wife ... —

- (a) during the course of any matrimonial proceedings; or
- (b) when granting or subsequent to the grant of a judgment of divorce, judicial separation or nullity of marriage.

[emphasis added]

9 In other words, it is not necessary for the former wife to seek a variation of maintenance application under s 118 of the WC. The former wife can file a fresh application for maintenance under s 113(1)(b) of the WC even “subsequent to the grant of a judgment of divorce”.

10 This view was previously expressed in the High Court decision of *APE v APF*¹¹ (“*APE(HC)*”). While the High Court in that case recognised the need for the wife to preserve her right to maintenance, the High Court held that making no order for

11 [2015] SGHC 17.

maintenance (instead of dismissing the wife’s application for maintenance) would allow her to apply for a fresh maintenance order under s 113 of the WC.¹²

11 However, the Court of Appeal rejected this approach in *APE(CA)* and made an order for nominal maintenance instead. The Court of Appeal noted that an order that there be no order on a wife’s application for maintenance is, in substance, a rejection of that application itself. An order that there be no order must necessarily constitute a decision on that application and cannot, instead, be an order that puts everything in limbo or which “suspends” final judgment.¹³

12 Notwithstanding the above, the learned Choo J took the view in *XFN* that *APE(CA)* did not adequately address the potential loophole of s 113(1)(b) which allows fresh maintenance applications to be brought by a former wife “subsequent to the grant of a judgment of divorce”.¹⁴ In response to this, this author suggests that this wording in s 113(1)(b) is not intended to encompass such fresh applications post-divorce. There are two reasons for this.

13 Firstly, if such a broad interpretation is accorded to s 113(1)(b), there would be a lack of finality in orders made in matrimonial proceedings. Section 112(1) of the WC, which concerns the court’s power to order division of matrimonial assets, uses similar wording to that in s 113(1)(b):

Power of court to order division of matrimonial assets

112.—(1) The court has power, when granting or *subsequent to the grant of a judgment of divorce*, judicial separation or nullity of marriage, to order the division between the parties of any matrimonial asset or the sale of any such asset and the division between the parties of the proceeds of the sale of any such asset in such proportions as the court thinks just and equitable.

[emphasis added]

12 *APE v APF* [2015] SGHC 17 at [41].

13 *APE v APF* [2015] 5 SLR 783 at [8].

14 *XFN v XFO* [2025] SGHCF 29 at [22].

14 If “subsequent to the grant of a judgment of divorce” refers to after divorce proceedings are concluded, this would mean that any party can invoke the powers under s 112 (for division of matrimonial assets) and s 113 (for former wife maintenance) even after a significant period of time has lapsed since the ancillary proceedings for the divorce has concluded. This would not be ideal, as there would then be no finality of proceedings.

15 In *AYM v AYL*,¹⁵ the Court of Appeal was tasked to consider the scope of the power conferred upon the courts to vary division of matrimonial assets orders under s 112(4) of the Women’s Charter.¹⁶ The Court of Appeal warned that it “is only logical as well as commonsensical” for there to be some finality once the matrimonial assets have been divided.¹⁷ This is to allow parties to go their own separate ways and to have nothing more to do with each other thereafter.¹⁸

16 The Court of Appeal further referred to the remarks made by the Council of the Law Society of Singapore to the Select Committee with regards to the amendments to the Women’s Charter that “it is undesirable to reopen the issue of how the assets were previously divided (or not divided, if the court did not previously avail itself of the power) years after the matrimonial proceedings have been concluded”.¹⁹

17 While these discussions were in relation to the scope of the variation power under s 112(4), this author suggests that these same considerations will apply, with even greater force, if the court were to have the power to hear fresh applications for division of matrimonial assets years after parties have gone their separate ways. This could not have been intended by Parliament by inserting the words “subsequent to the grant of a judgment of divorce”.

15 [2013] 1 SLR 924.

16 Cap 353, 2009 Rev Ed.

17 *AYM v AYL* [2013] 1 SLR 924 at [12].

18 *AYM v AYL* [2013] 1 SLR 924 at [12].

19 *AYM v AYL* [2013] 1 SLR 924 at [14].

18 Going back to s 113 regarding maintenance, there would be little reason to adopt different interpretations of this identical phrase in ss 112 and 113, as this would likely lead to confusion.

19 Secondly, it is submitted that allowing the former wife to make a fresh application for maintenance from her former husband even after a significant lapse of time would not be in line with the scope of obligation owed by the former husband.

20 Prof Leong Wai Kum has long advocated that the purpose of the power to order maintenance for the former wife is to give her a fair share of the wealth that had been acquired or built up by the marital partnership.²⁰ This is in contrast with the purpose of the power to order maintenance of the wife during the marriage, which is to provide modest maintenance to help her meet her immediate financial needs.²¹

21 The Court of Appeal in *ATE v ATD*²² (“*ATE*”) further endorsed Prof Leong’s view that the award of maintenance for a former wife takes into account the fact that the former wife ought to try to regain self-sufficiency, and that an order of maintenance is not intended to create life-long dependency by the former wife on the former husband.²³ With this in mind, this author argues that it would run counter to the aim of enabling the former wife to regain self-sufficiency if fresh applications for maintenance from former husbands are allowed to be initiated long after matrimonial proceedings have concluded.

22 This differentiation in purpose and obligations is further exemplified by the scope of s 69 of the WC.

23 Section 69(1) provides for a wife’s application for maintenance from her husband. Section 69(1), unlike s 113(1),

20 Leong Wai Kum, *Elements of Family Law in Singapore* (Singapore: LexisNexis, 3rd Ed, 2018) at para 18.017.

21 Leong Wai Kum, *Elements of Family Law in Singapore* (Singapore: LexisNexis, 3rd Ed, 2018) at para 13.018.

22 [2016] SGCA 2.

23 *ATE v ATD* [2016] SGCA 2 at [31].

does not allow for an application by a former wife.²⁴ This suggests that the power to order spousal maintenance under s 69(1) ends once the applicant is no longer a “wife”. If Parliament intended for a former wife to be able to make a fresh application for maintenance from the former husband, the scope of s 69(1) would have been expanded to include the words “or former wife”.

24 Contrast this with the position for child maintenance, which was an area of discussion in the Court of Appeal case of *AXM v AXO*²⁵ (“AXM”). The Court of Appeal observed *obiter* that the parent’s duty to maintain his or her child during the marriage and after the termination of marriage should not be separated. In other words, the parent’s duty towards the child’s financial needs should not be affected by the state of the parents’ marriage.²⁶ This is evident from the scope of s 69(2) of the WC, which empowers the court to order a parent to pay child maintenance without putting in place any temporal limitations *vis-à-vis* matrimonial proceedings.

25 Therefore, this author argues that s 69(1) was intentionally drafted to prevent fresh applications of maintenance by a former wife. The reference to “wife” in s 69(1) without any mention of “former wife” suggests a deliberate effort to exclude such fresh applications by former wives. Section 113(1) should therefore not be interpreted so widely to defeat this.

26 How, then, should “subsequent to the grant of a judgment of divorce” be understood? It is submitted that this has already been addressed by the Court of Appeal in *AXM*:

17 On the other hand, s 113(b) of the Act ... refers to a maintenance order granted in conjunction with the ‘granting or subsequent to the grant of’, *inter alia*, ‘a judgment of divorce’. This is what is commonly termed a ‘final maintenance order’. *Such an order for maintenance is, in our view, one which is granted at the conclusion of the entire divorce proceedings proper (including both the divorce as well as the ancillary proceedings)*. In a sense, it

24 Section 113(1) provides that “[t]he court may order a man to pay maintenance to his wife or former wife” [emphasis added].

25 [2014] 2 SLR 705.

26 *AXM v AXO* [2014] 2 SLR 705 at [33].

Nominal Maintenance – Principled or Inconsequential?

is ‘final’ inasmuch as the amount of maintenance for the wife is fixed – at least for the foreseeable future. [emphasis in original omitted; emphasis added in italics]

27 It is submitted that “a judgment of divorce” was interpreted narrowly in *AXM* to mean the conclusion of the divorce proceedings, or what practitioners commonly refer to as the “first stage” of the divorce proceedings. Upon the granting of the interim judgment, the court still retains the power to order maintenance under s 113(1)(b). A maintenance order will then be made at the conclusion of the entire divorce proceedings as part of the series of ancillary matters orders. Once this concludes, the former wife no longer has the right to make a fresh application for maintenance.

28 In summary, it is respectfully submitted that while the wording of s 113(1)(b) appears to envision fresh maintenance applications by former spouses, it does not and, more importantly, should not be interpreted in such a manner. The sensible interpretation should be the same as that adopted in *AXM*.

B. Criticism (2) – former husband is not a general insurer

29 Another common criticism about nominal maintenance is that it is no longer relevant in today’s age. It may be argued that women should not see their former husbands as a financial safety net which they can tap on depending on how the future unfolds. As the learned Choo J eloquently summarised this in *ADB v ADC*²⁷ at [10], “[t]he idea that maintenance is an unalloyed right of a divorced woman is an idea borne from the time when women were housewives living on the maintenance of the men”.

30 Indeed, the Court of Appeal has expressed the need for this shift in mindset.

31 In *ATD v ATE*,²⁸ the High Court had found it “perfectly reasonable” for the wife to request nominal maintenance to maintain her right in case a need arose for her to apply for

27 [2014] SGHC 76.

28 [2015] SGHC 131.

maintenance in future.²⁹ The learned High Court judge further chided the husband as being “wholly unreasonable” to deny her this right.³⁰

32 On appeal in *ATE*, the Court of Appeal rescinded this order for nominal maintenance. In doing so, the Court of Appeal laid down the following principles for consideration when ordering nominal maintenance:

(a) The courts cannot – and ought not to – order nominal maintenance automatically or as a matter of course.³¹

(b) What the court needs to do is to closely examine the facts and circumstances of the case in order to arrive at a principled decision as to whether or not nominal maintenance ought or ought not to be ordered.³²

(c) It will not suffice for the wife to argue – without more – that she is entitled to an order of nominal maintenance simply because her situation might change in the future.³³

(d) It has never been the duty of the courts to compensate parties for the vicissitudes of life. It has never been – and ought not to be – the case that a party (let alone a former spouse) has a duty to be a general insurer *vis-à-vis* another party. Indeed, in order to provide for the vicissitudes of life, persons generally have recourse to the purchase of insurance policies.³⁴

(e) The court ought always to bear in mind the underlying rationale and purpose for the award of maintenance generally to former wives.³⁵

29 *ATD v ATE* [2015] SGHC 131 at [34].

30 *ATD v ATE* [2015] SGHC 131 at [34].

31 *ATE v ATD* [2016] SGCA 2 at [28].

32 *ATE v ATD* [2016] SGCA 2 at [27].

33 *ATE v ATD* [2016] SGCA 2 at [29].

34 *ATE v ATD* [2016] SGCA 2 at [29].

35 *ATE v ATD* [2016] SGCA 2 at [31].

33 Interestingly, these principles laid down in *ATE* appear to provide guidance for when the courts ought not to order nominal maintenance, instead of when they ought to. In fact, the Court of Appeal in its decision referred to a series of cases where no nominal maintenance order was made, without referring to any cases where a nominal maintenance order was justified.³⁶

34 Even more interestingly, *ATE* was decided merely four months after the decision in *APE(CA)* which strongly re-affirmed the relevance and rationale of nominal maintenance orders.³⁷ Looking at both cases together, it appears that while *APE(CA)* keeps the necessity of nominal maintenance orders alive, *ATE* reminds the courts to take a closer look at the relevance of such orders by adopting a fact-specific assessment.

35 In light of the comments of the Court of Appeal in *ATE* that a former wife is expected to attain self-sufficiency as soon as practicable upon divorce and that the former husband should not be her general insurer, this author suggests that this undermines the purpose of ordering nominal maintenance, which is to preserve the former wife's right to maintenance in the future. Under what circumstances would it be appropriate and necessary to preserve such a right for the former wife? How would preserving this right be in line with empowering the former wife to attain self-sufficiency? Does this duty to continue providing for the former wife financially exceed the scope of obligation required of a former husband?

C. Criticism (3) – nominal maintenance runs counter to the need for a “clean break”

36 A related criticism to the one above is that ordering nominal maintenance orders prevent parties from having a clean break upon divorce.

37 The need for a clean break between parties' post-divorce has been recognised in matrimonial proceedings, specifically

36 *ATE v ATD* [2016] SGCA 2 at [35]–[38].

37 This point is examined at para 6 above.

in the context of deciding to order a lump sum payment of maintenance instead of periodic payments. The Court of Appeal had on multiple occasions noted that a lump sum order had the advantage of allowing for a clean break between parties to avoid further litigation and acrimony between the parties.³⁸

38 The same consideration should also apply when deciding whether to order nominal maintenance. Nominal maintenance is a periodic payment, albeit the amount involved is small. While the single dollar per month may not be financially significant to the former husband, it is onerous for him to have this order constantly hanging over his head, unsure of when a variation application may be filed by the former wife. There can never be a clean break if the former husband is constantly anticipating such an application.

D. Criticism (4) – it is unclear when nominal maintenance should be ordered

39 Lastly, there does not appear to be a consistent approach taken by the lower courts when ordering nominal maintenance.

40 The case of *ATE* sought to lay down principles for the courts' consideration when faced with the issue of ordering nominal maintenance. However, even the Court of Appeal conceded that it would be inadvisable for the court to lay down more specific principles simply because the factual permutations are enormous.³⁹

41 The difficulty, as alluded to above, is that *ATE* seemed to focus more on when nominal maintenance should be refused instead of allowed. It appears to suggest that “something more” is required to be shown by the wife to justify a request for nominal maintenance,⁴⁰ but the possibilities of what may constitute this “something more” are infinite.

38 *Wan Lai Cheng v Quek Seow Kee* [2012] 4 SLR 405 at [88]; *AYM v AYL* [2014] 4 SLR 559 at [19].

39 *ATE v ATD* [2016] SGCA 2 at [30].

40 *ATE v ATD* [2016] SGCA 2 at [43].

42 The dearth of guidance on this issue has manifested in somewhat inconsistent approaches taken by the lower courts, and different thresholds have been applied in making or refusing these orders.

43 For example, in *VJT v VJU*,⁴¹ the learned district judge refused to order nominal maintenance because “the circumstances of the ... case [were] not so exceptional such that a nominal maintenance need[ed] to be preserved for the Wife”.⁴² This case involved a marriage of about ten years with a nine-year-old child. In ordering no nominal maintenance, the court noted the wife’s age (46 years old) and her occupation as a freelance art teacher.⁴³ She did not have any disability, and had the experience and ability to obtain some sort of employment.⁴⁴ Further, she would be left with a substantial share of the total asset pool upon the divorce and be able to afford to support herself with a modest income.⁴⁵

44 Such a test of “exceptionality” employed in *VJT v VJU* has also been echoed in other decisions.⁴⁶ While *ATE* laid down the principle that nominal maintenance is not ordered automatically or as a matter of course, it is respectfully submitted that this does not imply that the threshold to be met is pitched as high as one of “exceptionality”. Further, it is unclear what amounts to an “exceptional” case.

45 On the other hand, in *XDZ v XEA*,⁴⁷ the learned district judge sought to formulate a helpful test for when nominal maintenance is appropriate. The court held that two conditions ought to be met before nominal maintenance may be ordered:⁴⁸

41 [2020] SGFC 64.

42 *VJT v VJU* [2020] SGFC 64 at [96].

43 *VJT v VJU* [2020] SGFC 64 at [94(a)].

44 *VJT v VJU* [2020] SGFC 64 at [94(c)].

45 *VJT v VJU* [2020] SGFC 64 at [94(e)].

46 *UPG v UPH* [2018] SGFC 90 at [47]; *UUQ v UUR* [2019] SGFC 36 at [68]; *VIQ v VIR* [2020] SGFC 49 at [52].

47 [2024] SGFC 90.

48 *XDZ v XEA* [2024] SGFC 90 at [52].

(a) First, the reason why substantial maintenance has not been awarded in the first place is due to (i) employment, health or other situation of the husband or wife, or (ii) the court having proceeded on certain assumptions.

(b) Second, there is a real possibility that such situations or assumptions may change in the future.

[emphasis in original omitted]

46 It is not immediately apparent how this test was gleaned from the principles laid down in *ATE*. The conditions laid down in this test also do not appear to be in line with the test for “exceptionality” adopted in other cases. It remains to be seen if this test will be endorsed by the higher courts.

47 Moreover, it is respectfully submitted that the learned district judge did not apply this test to the facts of *XDZ v XEA*. This was a long marriage of more than 21 years with four children. Both parties were 44 years old at the time of divorce. The court found that it was not appropriate to order nominal maintenance. In arriving at this conclusion, the court noted that there was no evidence that the wife was at risk of losing her job,⁴⁹ and she was capable of taking care of herself financially after the divorce. The wife had been gainfully employed throughout the marriage, earning a comparable income to the husband’s prior to the divorce and earning a higher income than the husband’s at the time of the ancillary matters hearing.⁵⁰ It is unclear how these factors fit in with the two conditions laid down in the test above.

48 The differing approaches taken by the lower courts highlight the difficulties judges face when applying the general principles laid down in *ATE*. Such a discrepancy also makes it difficult for practitioners to properly advise their clients on when they could expect to receive or pay nominal maintenance.

49 *XDZ v XEA* [2024] SGFC 90 at [54].

50 *XDZ v XEA* [2024] SGFC 90 at [55].

IV. Looking ahead – the way forward for nominal maintenance

49 It has been close to a decade since the cases of *APE(CA)* and *ATE* were decided. This author suggests that it is an opportune time to re-evaluate the purpose, rationale and relevance of nominal maintenance orders. In this regard, two areas of improvement ought to be considered.

50 Firstly, there ought to be clearer guidance on when nominal maintenance should and should not be ordered. While the Court of Appeal in *ATE* discussed at length about cases where nominal maintenance was not ordered, this author suggests that cases where nominal maintenance was awarded should similarly be considered. Below are some cases where nominal maintenance was ordered post-*ATE*:

(a) In *UKC v UKD*,⁵¹ the court held that nominal maintenance was appropriate in light of the wife's medical and psychiatric conditions. She had a degenerative disc disease of her cervical and lumbar spine, which limited the type of jobs she could undertake. The court also noted that her condition would worsen over time.⁵² The court further considered that the husband had a history of non-payment of maintenance. In light of this, the court declined to make a substantive maintenance order but instead ordered nominal maintenance in favour of the wife and a smaller share of the matrimonial assets for the husband than the original share that he was entitled to.⁵³

(b) In *VGP v VGQ*,⁵⁴ the court considered that parties did not have much matrimonial assets for division.⁵⁵ The husband's modest salary and the monthly child maintenance obligations would make it tight for him to

51 [2018] SGFC 19. The outcome of the husband's appeal against the decision is not known.

52 *UKC v UKD* [2018] SGFC 19 at [52].

53 *UKC v UKD* [2018] SGFC 19 at [57].

54 [2020] SGFC 30. The outcome of both parties' appeals against the decision is not known.

55 *VGP v VGQ* [2020] SGFC 30 at [57].

meet his daily needs, including his medical expenses for his schizophrenia.⁵⁶ On the other hand, the wife suffered from severe visual impairment, rendering her unsuitable for jobs requiring physical exertion. The wife was only 40 years old and was still working.⁵⁷ In ordering nominal maintenance, the court had regard to the fact that if the wife's visual impairment deteriorated further, she could become blind in both eyes. The court also considered that the husband's employment prospects were more favourable than the wife's as his schizophrenia condition could be managed with proper medication.⁵⁸

(c) In *TOT v TOU*,⁵⁹ the Appellate Division of the High Court affirmed the lower court's order for nominal maintenance. The court noted that the wife had not been able to secure any form of permanent employment since her retrenchment in 2017. There was also a real possibility that the wife might not be able to find a job in the near future in light of the job market uncertainty caused by the Covid-19 pandemic.⁶⁰

(d) In *XFN v XFO*,⁶¹ the lower court ordered nominal maintenance of \$1 per month for a transitional period of four years. The lower court recognised that the wife was a foreigner who relocated for the marriage and lacked local family support.⁶² The Family Division of the High Court left the order intact upon appeal.⁶³

51 It appears from the cases above that in deciding whether to order nominal maintenance, the courts still consider the general factors for ordering maintenance such as the parties' ages, incomes, earning capacities and the size of the matrimonial asset pool and share of division. In addition to this, there needs

56 *VGP v VGQ* [2020] SGFC 30 at [59].

57 *VGP v VGQ* [2020] SGFC 30 at [60].

58 *VGP v VGQ* [2020] SGFC 30 at [64].

59 [2021] SGHC(A) 9.

60 *TOT v TOU* [2021] SGHC(A) 9 at [26].

61 [2025] SGHCF 29.

62 *XFN v XFO* [2025] SGHCF 29 at [8].

63 *XFN v XFO* [2025] SGHCF 29 at [22].

to be “something more” as laid down in *ATE*.⁶⁴ This “something more” could be a health condition that the wife is suffering from which could worsen over time, or something exceptional like a pandemic that would make it difficult for the wife to secure employment in the near future. This “something more” could even be the wife’s immigration status and lack of family support in Singapore.

52 While these cases provide some insight into when nominal maintenance could be ordered, the question remains: How are these cases aligned with the principles laid down in *ATE*? Why does the responsibility of the former wife’s future expenses fall on the former husband when she suffers from a medical condition? Does this not run counter to the principle in *ATE* that the former husband is not a general insurer?

53 In light of these issues, it will be timely and instructive if the higher courts can build on the principles laid down in *ATE* to provide clearer guidance. A consistent approach adopted in the lower courts will make it easier for practitioners to advise their clients properly, to better manage parties’ expectations and to debunk any common misconceptions that parties may have about nominal maintenance.

54 Secondly, the criticisms regarding the former husband being a general insurer and the need for a clean break ought to be adequately addressed if nominal maintenance orders continue to be made. The decision in *APE(CA)* stresses the importance of preserving the former wife’s right to future maintenance. The author proposes that this right should be balanced against the former husband’s desire for a clean break as well as better financial planning in light of the financial challenges he may face in adapting to the new realities that flow from the breakdown of marriage.⁶⁵

55 One possible way of achieving this balance is to impose a fixed term for nominal maintenance orders. This is in no

64 See discussion at para 41 above.

65 *Foo Ah Yan v Chiam Heng Chow* [2012] 2 SLR 506 at [16].

way revolutionary. Such an approach has already been adopted and codified in the UK under s 25A of the Matrimonial Causes Act 1973.⁶⁶

25A Exercise of court's powers in favour of party to marriage on divorce or nullity of marriage order.

(1) Where on or after the making of a divorce or nullity of marriage order the court decides to exercise its powers under section 23(1)(a), (b) or (c), 24 or 24A, 24B or 24E above in favour of a party to the marriage, *it shall be the duty of the court to consider whether it would be appropriate so to exercise those powers that the financial obligations of each party towards the other will be terminated as soon after the making of the order as the court considers just and reasonable.*

(2) Where the court decides in such a case to make a periodical payments or secured periodical payments order in favour of a party to the marriage, the court shall in particular consider *whether it would be appropriate to require those payments to be made or secured only for such term as would in the opinion of the court be sufficient to enable the party in whose favour the order is made to adjust without undue hardship to the termination of his or her financial dependence on the other party.*

[emphasis added]

56 Similar to the approach adopted in *ATE*, the tenor of s 25A encourages parties to be financially independent post-divorce. While there may still be situations where periodic payments remain necessary, s 25A(2) seeks to secure the former husband's desire for a clean break by compelling the courts to consider the possibility of a fixed term periodic payment. The same approach may be considered in Singapore and in fact, such orders have been previously made.⁶⁷

57 The courts are not limited by the use of fixed term orders. Practitioners ought to be creative in submitting for the

66 c 18 (UK).

67 In *XFN v XFO* [2025] SGHCF 29, the lower court made an order for nominal maintenance for a transitional period of four years. This order was not disturbed upon appeal. Similarly, in *UET v UEU* [2018] SGFC 37 at [27], the court granted nominal maintenance to the wife for a period of ten years "to ensure that she would be able to seek financial contribution from the Husband should her circumstances change within that period".

appropriate orders to best address the needs of their clients, making use of the full range of orders that a court can make in matrimonial proceedings.

58 This balancing act between the parties' rights is not a zero-sum game. To the contrary, it is also beneficial for the wife to have certainty as to the maintenance she will or will not receive. Nominal maintenance allows her to retain the right to ask for more in the future, but in reality, it can be costly and time-consuming for her to seek a variation application. Oftentimes, initiating a court application years after the divorce will re-open healed emotional wounds and trigger further acrimony between parties. This cannot be a positive experience for either party.

V. Conclusion

59 It has been close to a century since the “peg” of nominal maintenance was first recognised in *Mills v Mills*. Although the Court of Appeal in Singapore has affirmed the need for nominal maintenance orders, it is timely for us to take a closer look as to whether nominal maintenance remains relevant. This would mean reconciling the purpose of nominal maintenance with the need for a clean break between parties, and being in line with the narrow scope of obligation owed by the former husband. If nominal maintenance orders are here to stay, clearer guidance ought to be laid down on when they should be ordered. When an order for nominal maintenance is made, judges and practitioners should also be mindful of the impact of the order on the former husband and be innovative in crafting orders that also take into account the former husband's concerns.