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VALUING CONNECTION TO THE FAMILY, BUT REWARDING EFFORT, ABOVE ALL

Reviewing the Past Ten Years of Matrimonial Asset Division Cases

This article reviews the past ten years of matrimonial asset division cases, examining what comprises a matrimonial asset, and the two main approaches for dividing matrimonial assets in *ANJ v ANK* [2015] 4 SLR 1043 and *TNL v TNK* [2017] 1 SLR 609. It discusses the various factors used in these two approaches, *eg*, marriage length, whether it is single or double-income, and the extent of parties' contributions. It concludes that the guiding principle is that of rewarding parties' efforts, tempered by the notion of "connection to the family", *ie*, the extent to which an asset has been intended, and used, to benefit the family.

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I. Introduction

1 This article[2] will cover the following issues, which have arisen time and again in matrimonial asset division cases over the past ten years. The ten-year time frame has been chosen as it coincides with the establishment of the Family Justice Courts on 1 October 2014. The issues are:

(a) What is a matrimonial asset?

(i) the matrimonial home and third-party (specifically, parents'[3]) interests;

1 The views expressed in this article are those of the author's, and not of the Legal Aid Bureau or the Ministry of Law. While hoping it will be useful to whoever reads it, the author assumes no responsibility or liability for any errors or omissions in the content of this article.

2 The contents of this article overlap with a talk given by the author as part of a panel at the Family Conference 2024 on 3 September 2024 (Session 3: "Five Will Get You Ten": The Road to a Just and Equitable Division of Matrimonial Assets").

3 The article focuses on parents rather than other third parties, as from the cases, the third parties who have some connection or interest in the matrimonial home are usually the parents of one of the spouses.

(ii) transformed matrimonial assets (from premarital assets or gifts or inheritance) through:

(A) ordinary use and enjoyment;

(B) substantial improvement;

(C) co-mingling until the original asset is untraceable; and

(D) the intention of the recipient.

(b) Division of assets:

(i) Why it matters whether a marriage is classified as a long single-income or dual-income marriage, because the *ANJ vs ANK*[4] approach ("*ANJ* approach") is used for dual-income marriages and the *TNL v TNK*[5] approach ("*TNL* approach") is used for long single-income marriages.

(ii) What is a dual or single-income marriage?

(iii) For the *ANJ* approach, how is the weighting between direct and indirect contributions affected by the length of the marriage and other factors?

(iv) For the purposes of the *TNL* approach, how is division of the matrimonial assets affected by the length of the marriage and other factors?

2 This author's contention after reviewing all the cases set out in this article is that the relevant legislation and case law appear to say that: (a) there should be no windfalls for anyone – you should not get something you did not make any effort to acquire or improve (the "no windfall" principle); and (b) "meritocracy" is the preferred system – just

4 *ANJ v ANK* [2015] 4 SLR 1043. See Held at para 3, where the *ANJ* approach is described as follows:

> First, the court could derive a ratio which represented the parties' respective direct contributions towards the acquisition or improvement of matrimonial assets. Next, the court derived a second ratio which represented the parties' indirect financial and non-financial contributions towards the welfare of the family. The court then averaged the two ratios to derive each party's overall contribution to the family. The 'average percentage contribution' or 'average ratio' were non-binding figures – the court would have to make adjustments as and when necessary. Adjustments would be necessary whenever the parties' collective direct contribution did not carry the same weight as that of the parties' collective indirect contribution ...

5 *TNL v TNK* [2017] 1 SLR 609 – generally, for long single-income marriages, the courts would tend towards an equal division of the matrimonial assets: at [48] and [53]–[54].

like the student who gets better marks should get more rewards in school, the spouse who is more capable and hardworking (and thereby added the most value to the family) should benefit accordingly (the "rewarding effort" principle). However, these principles are tempered by a competing notion, which is that of "connection to the family".[6]

II. What is a matrimonial asset?

A. Legislation

3 Section 112(10) of the Women's Charter 1961[7] ("WC") states:

> In this section, 'matrimonial asset' means —
>
> > (*a*) any asset acquired before the marriage by one party or both parties to the marriage —
> >
> > > (i) *ordinarily used or enjoyed* by both parties or one or more of their children while the parties are residing together for shelter or transportation or for household, education, recreational, social or aesthetic purposes; or
> >
> > > (ii) which has been *substantially improved* during the marriage by one party or both parties to the marriage; and
> >
> > (*b*) any other asset of any nature acquired during the marriage by one party or both parties to the marriage,
>
> but does not include any asset (not being a *matrimonial home*) that has been acquired by one party at any time by gift or inheritance and that has not been *substantially improved* during the marriage by the other party or by both parties to the marriage.
>
> [emphasis added]

4 On the "substantial improvement" requirement, s 112(10) of the WC is worded to prevent a spouse getting a windfall from a premarital asset acquired by, or a gift or inheritance made to, the other spouse – at least one or both spouses will need to have had a hand in improving the gift or inheritance substantially during the marriage (and this effort would have consequences on both parties to the marriage, *ie*, the spouse making the improvements, as well as the spouse who did not make the

6 See paras 42–43 below for an elaboration the principle of "connection to the family".
7 2020 Rev Ed. See the Annex for a flowchart on s 112(10) of the Women's Charter 1961.

improvements[8]) before it can even count as a matrimonial asset. However, s 112(10)(*a*)(i) of the WC, which provides the "ordinarily used or enjoyed" exception and the exception for the matrimonial home appearing at the end of s 112(10) of the WC, is a recognition of the strong connection of these assets to the family when it was a going concern. In this regard, the matrimonial home has been described as the "cradle of the family",[9] where the spouses lived out their co-operative marital partnership and brought up the children, if any. In the same vein, the assets "ordinarily used or enjoyed" by the family would have been things which enabled the co-operative marital partnership to flourish and thrive.

5 Gifts between spouses made during the marriage ("pure inter-spousal gifts") are considered to be matrimonial assets (and not falling within the "gift" referred to in the last portion of s 112(10) of the WC). This is because the giving spouse would have had to spend time or effort in acquiring that asset in order to give it to the other spouse – thus, the gift was an asset acquired during the marriage. However, inter-spousal gifts, the subject matter of which were acquired *before* marriage, would not be matrimonial assets as they were not obtained with any effort expended by the giving spouse *during* (as opposed to *before*) the marriage. They would remain a non-matrimonial asset unless transformed.

6 These principles have been well established in case law.[10] However, *de minimis* gifts, or gifts where the giving spouse was clear in his intention to divest himself of all interest in them would not be included in the matrimonial asset pool. This is illustrated by *XEB v XEC*.[11] In this case, the wife was given jewellery and wedding gifts from the husband's family and relatives – the court did not include these in the matrimonial asset pool. The court said that even if these gifts came from the husband, they were *de minimis* ($5,000) compared to the total matrimonial asset pool (of close to $6m) – and *de minimis* pure inter-spousal gifts are not matrimonial assets. However, the wife had also been given a car by the husband – this car was considered part of the matrimonial asset pool, as a pure inter-spousal gift, as there was no clear indication from the husband that he intended to divest himself of all interest in the car. In this regard, the car was bought in the husband's own name, even though the wife was

8 Time spent by a spouse on improving the premarital asset, gift, or inheritance would mean less time to acquire other assets, care for the family, spend time with the other spouse, or do self-care.

9 See *Chen Siew Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [33], *per* Andrew Phang J and the discussion in Leong Wai Kum, "Definition of Property as Matrimonial Asset Through the Lens of Therapeutic Justice" [2024] SAL Prac 4 at paras 73–75.

10 See *Wan Lai Cheng v Quek Seow Kee* [2012] 4 SLR 405, endorsed by the Appellate Division of the High Court in *CLS v CLT* [2022] 2 SLR 1043.

11 [2024] SGHCF 37.

the only one who drove it. This author suggests that if the car was bought in the wife's name, and perhaps presented to her as a gift on a special occasion, the wife could mount an argument that the husband intended to divest himself of all interest in it. Making the "intention of the giver" a determining factor in whether a pure inter-spousal gift remains as a matrimonial asset is in line with how the "intention of the recipient (of a third-party gift)" is a determining factor in whether a third-party gift becomes a matrimonial asset. Both intentions establish the connection (or otherwise) of the gift to the family estate.[12]

B. Case law on definition of "matrimonial asset"

(1) Purchased before marriage, paid for during marriage

7 An asset which is purchased before the marriage but paid for during the marriage, *eg*, through mortgage payments, is a matrimonial asset. In *USB v USA*,[13] the wife owned 17 properties, eight of which the parties agreed were matrimonial assets, and nine of which were disputed. The latter were purchased before the marriage, but the wife made payments towards them during the marriage. The court counted that part of the property paid for during the marriage as a matrimonial asset. The approach the court used was as follows: *x* (amount spent from the date of the marriage to the date of the interim judgment of divorce ("IJ")) divided by *y* (amount spent from the date of purchase of the property to the date of the ancillary matters hearing), multiplied by 100%, multiplied by the net value of the property.

8 This approach is in line with the principle that matrimonial assets are intended to be the "material gains of the marital partnership",[14] acquired through the efforts of one or both partners. If a spouse is making payments towards an asset during the marriage, then the asset (or at least part of it) was beneficially acquired during the marriage, even if the legal title had been conveyed to the spouse before the marriage.

(2) Only improved value during marriage to be added

9 For assets other than the matrimonial home which were acquired before marriage but were substantially improved during the marriage, only the improved value would be added to the matrimonial asset pool, rather than the entire value of the asset. This is to prevent an unjustified windfall to the party who did not contribute to acquiring the property

12 See paras 34–41 below on the "intention of the recipient" point.
13 [2020] 2 SLR 588.
14 *BPC v BPB* [2019] 1 SLR 608 at [51].

pre-marriage. On this point, see *UJF v UJG*.[15] In this case, there was a number of premarital assets which were improved during the marriage. The attribution of the value increase during the marriage was taken to be from 2009–2013, which was roughly the length of the marriage.

(3) Part interest in property may constitute matrimonial asset

10 *VOD v VOC*[16] will be examined. During the marriage, the parties stayed in a property held in joint tenancy in the husband's, his mother's and his brother's names ("Property A"). Property A was purchased by the husband's father long before the husband's marriage. The husband and his parents had lived in Property A since the time of purchase, and the wife moved in when the parties got married.

11 The Appellate Division of the High Court ("Appellate Division") held that a part interest in a property *may* constitute a matrimonial asset subject to division. However, for this case, the husband's part interest in Property A was not a matrimonial asset, but a gift to him from his father.[17]

(4) Asset purchased during marriage but after marriage soured: still matrimonial asset, unless exceptional circumstances

12 In *WQP v WQQ*,[18] the wife had bought some shares ("J shares") without any contribution from the husband when the parties were contemplating divorce. They no longer had a shared bedroom but were still living under the same roof. Divorce proceedings had not been filed, but the parties were in the midst of negotiations on the terms of their divorce. The Appellate Division held that the J shares were still part of the matrimonial assets. Assets acquired after the parties' separation should not generally be excluded from the pool of matrimonial assets, unless there were exceptional circumstances, in line with the principle that a marriage practically ends only upon the grant of the IJ. The circumstances of separation could instead be relevant when the court considers the parties' indirect contributions to the marriage in deciding how to divide the matrimonial asset pool. There was no evidence in this case that the husband had completely dissociated himself from the acquisition of the shares. If there was such evidence, then the conclusion might have been different for this case.

15 [2019] 3 SLR 178 at [59] and [123].
16 [2022] SGHC(A) 6.
17 See para 21 below.
18 [2024] 2 SLR 557.

13 In this regard, the court noted the case of *Ong Boon Huat Samuel v Chan Mei Lan Kristine*,[19] where the court excluded an apartment purchased by the husband during the marriage, as the wife had given evidence that the husband should bear full liability for the property as it was for his sole benefit and would belong wholly to him. This was an exceptional case where the spouse had wholly disassociated herself from the purchase of the disputed asset, and hence it should not belong to the matrimonial asset pool. The author's interpretation of these two cases is that the non-acquiring spouse's intention to dissociate from the disputed asset acquired by the other spouse establishes its non-connection to the family estate – whereas the connection is normally assumed from the fact that it was acquired during the marriage. The point to note is that it is the intention of the non-acquiring spouse which matters in establishing the lack of connection, as opposed to the intention of the spouse who acquired the asset.

III. Matrimonial home and third-party (parents') interests

14 The significance of a property being classified as a matrimonial home is that the entire value of the matrimonial home (or at least that portion of it belonging to the relevant spouse) would be added into the matrimonial asset pool, even if the matrimonial home was acquired before marriage,[20] and/or through inheritance.[21]

15 In *WNW v WNX*,[22] the husband and his mother had bought a Housing and Development Board flat which they held as joint tenants several years before the parties married (the "flat"). After marriage, the flat continued to be in the joint names of the husband and his mother. The husband and wife used the flat as their matrimonial home. After 31 years of marriage, the parties started divorce proceedings and IJ was granted. Prior to the final judgment being granted, the husband's mother passed away, leaving the husband as the sole owner of the flat.

16 The husband argued that only 50% of the flat should be considered a matrimonial asset. The General Division of the High Court (Family Division) ("Family Division") disagreed, holding that 100% of the flat was considered a matrimonial asset, in accordance with the exception under s 112(10) of the WC, which provides that properties acquired by inheritance are to be excluded from the matrimonial pool, unless it is the matrimonial home.

19 [2007] 2 SLR(R) 729.
20 See *UJF v UJG* [2019] 3 SLR 178 at [60].
21 See *WNW v WNX* [2024] 3 SLR 1761.
22 [2024] 3 SLR 1761.

A. What is matrimonial home?

17 Factors to consider when deciding whether a residence the parties stayed in is a matrimonial home pertain to the connection of the residence with the family; the stronger the connection, the more it points in favour of the residence being considered as a matrimonial home:

(a) how long the parties stayed there relative to the length of the marriage;

(b) their intentions when they moved in and moved out; and

(c) third-party parents' intentions or control (where applicable).

(1) TXW v TXX*: 12 out of 20 years*

18 In *TXW v TXX*,[23] the husband acquired Property B before marriage and the parties lived there for 12 years out of their 20-year-long marriage. They moved out to allow renovations to be made, but the move to the new place was meant to be temporary. The court held that Property B was a matrimonial home.

(2) TND v TNC*: 15 months out of 13 years*

19 In *TND v TNC*,[24] the parties stayed in a property acquired by the husband before marriage. They lived there for 15 months in their 13-year-long marriage. The Court of Appeal held that: (a) once a property was a matrimonial asset by virtue of residence, it did not lose that character because the parties moved out before the divorce; and (b) that a significant period of residence would suffice in turning an asset acquired before marriage into a matrimonial home – in this case 15 months was considered a significant period of time (even though it was less than 10% of the length of the marriage).

(3) WDO v WDP*: parties stayed in one house, children stayed in house next door*

20 The parties in *WDO v WDP*[25] were married in 1988 and the marriage lasted for 31 years, with IJ being granted in 2019. The wife was given two properties by her mother, one in 2004, in which the parties stayed (though the family was already staying there from 1994, with the wife's mother's permission), and the other in 2012, in which the two

23 [2017] 4 SLR 799.
24 [2017] SGCA 34.
25 [2022] SGHCF 11.

oldest children of the family stayed. There was a connecting gate installed between the two properties, and some renovations were done on both properties. The family had stayed overseas for a couple of years, but otherwise stayed in the two properties when they were in Singapore (thus staying in the first property for about 25 years, and in the second property for about seven years). The court considered both properties as one giant matrimonial home and hence part of the matrimonial asset pool.

B. Parents' control over matrimonial residence

(1) VOD v VOC

21 See paras 10–11 above for the facts of this case. As stated above, the Appellate Division had held that the husband's part interest in Property A was not a matrimonial asset, but remained a gift to him from his father. This is because the wife only lived in Property A for a short period of time and the husband's parents, and not the parties, were effectively the master and mistress of Property A and the household. In this regard, the husband's father paid the mortgage payments and running expenses of Property A, and the husband's mother maintained Property A, purchased groceries, and kept the household in order using money given by the husband's father.

22 There was a similar fact scenario in *TQU v TQT*,[26] where the parties stayed in a property gifted to the husband before the marriage ("Property C"). The wife asserted that the parties lived there for about 1.5 years (out of their 20-year-long marriage), which assertion the husband disputed. The Court of Appeal observed that the husband's mother and sisters were living in this property even before the parties' marriage, and thus it seemed "more as a home for the Husband's family rather than a matrimonial home".[27] Thus, even if the parties had lived there, it would only have been a temporary measure while awaiting another property to be ready, which became their agreed matrimonial home for the bulk of the marriage. Therefore, Property C was not considered as a matrimonial asset.

(2) VXM v VXN

23 In *VXM v VXN*,[28] the husband and wife had lived in a property owned by the husband's mother for most of the marriage. This was because they were supposed to live in their own home, but the construction was

26 [2020] SGCA 8.
27 *TQU v TQT* [2020] SGCA 8 at [53]–[54].
28 [2023] SGHCF 39.

not completed when they got married, and the husband's mother offered to let them stay in her property. Even when their own home was ready, they decided to continue staying in the husband's mother's property, because they were comfortable in it. When the husband's mother passed away, the husband inherited a ¼ share in it. The wife claimed that the ¼ share was a matrimonial asset and not an inheritance. The court held that this was not a matrimonial asset as: (a) the parties had accepted that the property belonged to the husband's mother during her lifetime; and (b) the husband's mother did not intend for the property to be owned by the parties and she had retained control over it.

24 It is submitted that the above cases illustrate the "no windfall" principle – the courts were careful to ensure that the efforts of the parents in acquiring and maintaining a residence for themselves and their family did not end up benefiting an in-law that: (a) they did not intend to benefit; (b) who had not added significant value to that residence or extended household; and (c) whose connection to that residence and extended household was weak.

IV. Transformed matrimonial assets (from premarital assets, gifts or inheritance)

A. Ordinary use and enjoyment: holiday homes

25 Something more than occasional stays while on holiday would be required to convert a property which is a premarital asset, gift or inheritance into a matrimonial asset – the connection to the family of an occasional stay in a house while on holiday is not strong enough to overcome the "no windfall" or "rewarding effort" principles.

(1) JAF v JAE

26 The parties in *JAF v JAE*[29] disagreed on whether a certain property in Poland purchased by the wife before the marriage and held by the wife in her sole name was a matrimonial asset. It was not lived in by the family nor were any improvements made on it. The court held that although the family had stayed in the Polish property briefly a couple of times on holiday, this was not enough to make it a matrimonial asset.

29 [2016] 3 SLR 717.

(2) CLB v CLC[30]

27 In *CLB v CLC*[31] there was an Australian property which was a gift to the husband, which the parties stayed in when they visited Australia, about a week or so at a time, totalling about three months over the course of the marriage. This was a relatively small amount of time compared to the 16-year-long marriage, so this did not meet the threshold of the house being "ordinarily" used or enjoyed by both parties. Therefore, this property was excluded from the matrimonial pool.

B. Substantial improvement

(1) Timing of substantial improvement: must be after gifting, not before

28 In *UEQ v UEP*,[32] the Court of Appeal held that a gift to a spouse does not constitute a matrimonial asset liable for division upon divorce if it had been substantially improved by the other, non-recipient, spouse *before* (as opposed to *after*) it was gifted to the recipient spouse. The focus is on the donor's intention. The non-recipient spouse would receive an "unwarranted windfall" if she takes a share in a gift when the person giving the gift, knowing that the non-recipient spouse had contributed to the asset in question before the gifting, still gifts it *solely* to the recipient spouse.

29 In this case, the husband and his family ran a supermarket chain. The husband's father gave him 20,000 shares in the supermarket in 1999 and another 60,000 shares in 2012. The wife worked in the supermarket after her marriage to the husband in 2003 until 2012. The Court of Appeal held that the 20,000 shares could be included in the pool of matrimonial assets because they had been substantially improved by the wife during marriage, as there was a direct connection between her work in the supermarket and the improvement of the shares. However, the wife stopped working in the supermarket at about the time the 60,000 shares were gifted to the husband. These 60,000 shares were not matrimonial assets since the substantial improvement had occurred before the gift of the shares to the husband. The husband's father could not have intended to benefit the wife with the 60,000 shares, since he had given them to the husband only, even though he was already married at the time.

30 This case went on appeal to the Appellate Division in *CLB v CLC* [2022] 1 SLR 658 and the Court of Appeal in *CLC v CLB* [2023] 1 SLR 1260, but this Australian property issue was not the subject of the appeals.

31 [2021] SGHCF 17.

32 [2019] 2 SLR 463.

(2) No added value and no effort or minimal effort: not improvement

30 Paying subscription fees and applying for spousal privileges for a country club is not an improvement of the membership.[33]

31 If the spouse was paid for work done, it does not count as an improvement. In *VUG v VUF*,[34] the marriage lasted about five years. The issue was whether certain shares in two companies which were acquired by the husband before marriage were matrimonial assets.

32 The wife was made a director of each company and was paid $2,800 per month by each company, though the husband claimed that she actually did no work for the companies. The wife claimed, on the other hand, that she did significant work for each company.

33 The court held that whatever shares were acquired before the marriage did not count as matrimonial assets unless the wife could prove that she had substantially improved the business of both companies or either company during the marriage. The wife had made no financial contributions to either company and did not put forward any evidence that she had made significant non-financial contributions to the companies. As for the work she claimed she had done, since she was paid a monthly salary, such work did not count as significant improvements to the matrimonial assets. If her work as an employee of the companies was taken into account for the purposes of s 112(10)(*a*)(ii) of the WC, it would amount to double recovery, since she had already been paid for this work. This author supposes it would have been different if the wife could have shown that the value of her work was much higher than the salary that she had been paid, but she did not put forward any evidence of this.

C. Co-mingling until original asset untraceable; intention of recipient

(1) Role of co-mingling

34 It is submitted that there are two roles played by the co-mingling of gifted, inherited or premarital assets ("Outside Marriage Assets") with assets acquired during the marriage (through the effort of one or both spouses) ("Inside Marriage Assets"). First, the Outside Marriage Assets may be so co-mingled with the Inside Marriage Assets that they become untraceable and unidentifiable as a distinct asset from the Inside

33 See *UVF v UVG* [2019] SGHCF 21.
34 [2022] SGHCF 16.

Marriage Assets; and second, it evidences the intention of the spouse to share the Outside Marriage Assets with the other spouse and/or to use it for the benefit of the family.

(2) WDO v WDP*: gifted assets still identifiable*

35 In *WDO v WDP*,[35] the wife had monies in various bank accounts in her sole name. She produced evidence to show that these monies could be traced back to monies given to her by her mother. The wife had no independent income of her own and the husband did not substantially improve these assets or purchase them. Therefore, these assets were excluded from the pool of matrimonial assets.

36 This author's view is that this implies that if the gifted assets were so co-mingled with the matrimonial assets that the original assets could not be traced, and became unidentifiable from the matrimonial assets, they would become part of the pool of matrimonial assets. This can also be seen in *WTS v WTR*.[36] In this case, the husband had argued that a $10,000 sum in one of his POSB bank accounts was a premarital asset. However, the Family Division held that they were matrimonial assets. This is because the pre- and post-marital assets were so co-mingled that tracing them was impossible.

(3) *Intention to share Outside Marriage Assets with spouse*

(a) *WFE v WFF*: intention to share evidenced by placing Outside Marriage Assets into joint account with spouse

37 In *WFE v WFF*,[37] it was held that where one spouse places moneys derived from non-matrimonial assets into a joint account with the other spouse, a rebuttable presumption arises that the transferring spouse intends to share the moneys with the other spouse and that such assets would *prima facie* be part of the matrimonial pool – though a rebuttable presumption would not arise that half of such moneys should belong to the other spouse.[38]

38 In this case, the wife's inherited funds were part of the matrimonial asset pool since they had been used to purchase the matrimonial property, which suggested that the wife intended to share the funds with

35 [2022] SGHCF 11.
36 [2024] SGHCF 33.
37 [2023] 1 SLR 1524.
38 This author's comment is that doing so would ensure that the other spouse does not get a double windfall.

the husband. However, she should still be fully credited for her direct contributions as the funds originated from her inheritance.

39 The wife had also used the sale proceeds of a property she had purchased before marriage to pay for part of the matrimonial home. The wife said that this should be deemed as her sole contribution. The husband said that this should be considered as equal contributions from both parties because the transfer of title of this property was only done after the registration of the parties' marriage. Further, the wife had transferred the sale proceeds from her personal account to the parties' joint account, which suggested that she intended to share the sale proceeds with him. The court agreed, saying that a rebuttable presumption arose from the wife's transfer of the sale proceeds from her personal account to the parties' joint account well before the marriage had broken down, *ie*, that she would share the sale proceeds with her husband. The wife could not rebut the presumption. However, as was the case for the inheritance funds, the wife should be fully credited for contributing the sale proceeds to pay for the matrimonial home.

(b) *CLC v CLB*: Outside Marriage Assets identifiable, but intention to treat them as part of family estate

40 In *CLC v CLB*,[39] the husband received monetary gifts and inheritance from his late father ("Gifted Monies"). The Gifted Monies flowed into the husband's several investment portfolios and bank accounts including a joint bank account he held with his wife. The Gifted Monies thus co-mingled with other income and assets of the husband ("Disputed Assets"). The husband's position was that the Disputed Assets should not be included in the matrimonial pool for division because their original source was the Gifted Monies. The wife's position was that the husband intended for the Gifted Monies to be treated as part of the family estate and hence, should be included in the matrimonial pool. The Family Division included the Disputed Assets in the matrimonial pool[40] but on appeal, the Appellate Division excluded them.[41] The wife appealed to the Court of Appeal.

41 The Court of Appeal allowed the appeal. It held, amongst other things that:

(a) Section 112(10) of the WC does not provide for the intention of a spouse who received a gift or inheritance to treat it as part of the family estate, such that it loses its character and can

39 [2023] 1 SLR 1260.
40 *CLB v CLC* [2021] SGHCF 17.
41 *CLB v CLC* [2022] 1 SLR 658.

be regarded as a matrimonial asset. However, the section does not exclude the right of a spouse to deal with his or her personal asset in any way he or she wishes to deal with it, including bringing it into the matrimonial pool.

(b) On the requirement of tracing, the link between the currently owned asset and the asset allegedly acquired by gift or inheritance had to be established. Where money in a bank account is concerned, this could include details of its source of contributions, and the specific use of any withdrawals. Co-mingling of monies does not automatically mean the monies lose their character as a gift or inheritance. The burden of proof would lie on the party who asserts that an asset was acquired through gift or inheritance, and was hence not a matrimonial asset. Conversely, where an asset is *prima facie* not a matrimonial asset (*eg*, it was clearly a gift), the burden of proof would then lie on the party asserting it is a matrimonial asset.

(c) In this case, the husband bore the burden of proof. Although he did not provide evidence showing precise links, the Court of Appeal held that the Disputed Assets were derived from the Gifted Monies. However, the Gifted Monies had lost their character as gifts and inheritance given the "clear and unambiguous intention" of the husband to treat the said monies as part of the family estate. This could be seen from an e-mail to his wife entitled "Our Net Worth", where he set out a list of assets, including a premarital gift from his father (an Australian property). Similar correspondence over the years referred to "our liquid assets" and "our net wealth". He also placed some of the Gifted Monies in the parties' joint account.[42] Such placement would give rise to a rebuttable presumption that the spouse intended to share the monies with that other spouse. The husband failed to rebut the presumption because the Court of Appeal did not accept his explanation that the purpose of the joint account was to provide for the family if anything untoward happened to him.

D. Summary: establishing no connection to family estate

42 This author's view is that the principle behind the effects of co-mingling is that of "connection to the family". Either the outside marriage asset is so co-mingled with the family assets that it is indistinguishable from them (*ie*, so connected to the family that it

42 *CLC v CLB* [2023] 1 SLR 1260 at [88]–[91].

cannot, practically, be extricated), or the recipient spouse connected it to the family through his words and acts, and should not be allowed to go back on that representation, as it were. Keeping this in mind, it seems from the cases above that it would be important for parties who have Outside Marriage Assets and who do not intend to gift their spouse with them to:

(a) keep good records of what they did with these assets during the marriage;

(b) put them in their personal account, not a joint account, so that they are traceable and distinct from the Inside Marriage Assets, and will not give rise to a rebuttable presumption that they intended to share the Outside Marriage Assets with their spouse;

(c) not use them to purchase assets the family will be using (*eg*, the matrimonial home);

(d) make it clear in any correspondence or communications that they intend to ring-fence the Outside Marriage Assets from the Inside Marriage Assets; and

(e) preserve such correspondence or communications (for evidential purposes, should the need arise).

43 The above should ensure that no connection is established between the outside marriage asset and the family estate.[43]

E. Rewarding non-calculative behaviour: WQP v WQQ

44 The summary above implies that calculative behaviour in establishing no connection between the outside marriage asset and the family estate will be rewarded in the division of matrimonial assets on divorce. However, the recent Appellate Division case of *WQP v WQQ*[44] has tried to disincentivise such calculative behaviour during the marriage. In this case, which featured a dual-income marriage lasting about ten years, the husband had at the start of the marriage the equivalent of at least $5.4m in his Hong Kong bank accounts. These pre-marriage assets were not ring-fenced from the family. Instead, the husband had mixed these funds with monies earned during the marriage and collectively used them for the benefit of the family. The husband estimated that he had spent about $250,000 per year for the family's expenses. He had semi-retired just three years into the marriage which lasted ten years, and hence the court accepted that he would likely have used substantially his pre-marriage

43 Though it needs to be said that such actions are not a recipe for marital bliss.
44 [2024] 2 SLR 557.

funds in addition to any income earned during the marriage to provide for the family. The husband was not able to trace the specific assets which constituted the matrimonial pool to his pre-marriage assets, but at least a substantial portion of the matrimonial pool could be attributed to these assets, given the evidence on the parties' incomes and assets. In this regard, as earlier stated, the husband had already semi-retired three years into the marriage, and the wife was just embarking on her career in the finance industry at the start of the marriage. In this case, the husband did *not* evince a clear and unambiguous intention to treat his pre-marriage assets as part of the family estate, unlike the husband in *CLC v CLB*.[45]

45 The court noted that had the husband kept records of transactions and transfers throughout the marriage or kept his pre-marriage moneys separate from marital funds, he might have been in a better position to prove which assets were pre-marriage assets. However, the court stated:[46] "But such behaviour is not what should be encouraged in marriage. Sad is the day when married couples keep records or organise their affairs in ways that will put them in a better financial position in the event that the marriage ends in divorce." The court noted that the husband's conduct in using his pre-marriage assets for the benefit of the family was consistent was the ideals of "mutual cooperation to safeguard the interests of the union and to care and provide for the children as required by s 46 of the Charter".[47]

46 The court did not wish such a party to be worse off financially in the event of a divorce than a party who ring-fenced his pre-marriage assets from the matrimonial pool. Therefore, the court should have regard to the circumstances of the spouse co-mingling his substantial pre-marriage assets with the marital assets. The court thus shifted the average ratio of division by 5% in the husband's favour. The direct financial contributions between the parties were 70.32:29.68 in the husband's favour, and the indirect contributions were 50:50. Hence, the average ratio was 60:40 in the husband's favour, using the *ANJ* approach. With the shift of 5% in the husband's favour, the average ratio became 65:35 in the husband's favour. In addition to considering that much of the matrimonial pool could be attributed to the husband's pre-marriage assets, the court also considered that the marriage of ten years was not

45 [2023] 1 SLR 1260.

46 *WQP v WQQ* [2024] 2 SLR 557 at [61], *per* Debbie Ong JAD.

47 *WQP v WQQ* [2024] 2 SLR 557 at [62], *per* Debbie Ong JAD. Section 46 of the Women's Charter 1961 (2020 Rev Ed) states:

> A husband and wife are mutually bound to cooperate with each other in —
>
> (*a*) safeguarding the interests of the union; and
>
> (*b*) caring and providing for the children.

a long one. The financial contributions may not have been so significant had it been a long marriage. The court stated that its approach:[48]

> … supports marriage partners in discharging their responsibilities as required by s 46 of the Charter. It also minimises the incentive for parties in similar situations to submit inordinate amounts of documents and engage in the exercise of tracing multiple movements of dollars and cents over many years of marriage, in the hope of proving that certain assets are derived from pre-marriage assets which retain their character as non-matrimonial assets. Such an exercise would involve substantial resources from the parties and the courts … It would also protract proceedings and further aggravate the parties' relationship. It would grate against the aspirations of a therapeutic justice system that endeavours to support parties in reaching a harmonious resolution of disputes and in moving forward in their lives.

47 The author's view is that this should provide some comfort to those spouses who have done the honourable thing in bringing all that they had financially into the marriage, without reservation or restraint – such spouses just need to make sure that they do not leave any evidence that they intended, clearly and unambiguously, to treat their pre-marriage assets as part of the family estate.

V. Division of assets

A. Why it matters whether marriage is long single or dual-income one

48 In *BPC v BPB*,[49] it was held that the court must first enquire whether the marriage is a long single-income or dual-income one. The principles are that:[50]

> (a) The *ANJ* approach will be used for dual-income marriages.
>
> (b) The *TNL* approach will be used for long single-income marriages – meaning that in such cases the court will generally tend towards equal division unless the marriage involves an exceptionally large asset pool. If there is an exceptionally large asset pool, then the *ANJ* approach would apply.

49 However, in the cases reviewed for this article, it appears that for longer single-income marriages with a large pool of matrimonial

48 *WQP v WQQ* [2024] 2 SLR 557 at [71], *per* Debbie Ong JAD.
49 [2019] 1 SLR 608.
50 See para 12 of the case headnotes.

assets mostly earned by one spouse, the courts have still preferred to use the *TNL* approach (see paras 125–131 below). This is the case even for shorter single-income marriages with an exceptionally large asset pool mostly earned by one spouse (see paras 133–138 below).

50 The *ANJ* approach takes into account the direct financial contributions made by the parties towards the acquisition of the matrimonial assets and the indirect contributions made by the parties to the welfare of the family. The objective is to "accord due and sufficient recognition to each party's contribution towards the marriage – without overcompensating or undercompensating a spouse's indirect contributions – so that the outcome would, in the circumstances of each case, lead to a just and equitable division".[51] The focus of this approach is on the parties' contributions (*ie*, the efforts they made and the outcome of those efforts) – these are only two of the factors under s 112(2) of the WC,[52] namely, s 112(2)(*a*) and s 112(2)(*d*), and do not take into account other factors such as the needs of the children, any agreement between the parties regarding the matrimonial assets, and so on. Although these other factors could be taken into account, it is clear that the key principle in the *ANJ* approach is that of "rewarding effort". This is shown in the case of *WWM v WWN*,[53] *eg*, where the husband had argued that he should have been given an uplift of at least 5% in the final division of the matrimonial assets on account of his prostate cancer and other medical conditions (hypertension, diabetes, coronary issue (stent in his heart) and high protein in his urine). The uplift would help him with the cost of cancer treatment and the need to employ a domestic helper or nurse to take care of him. The Family Division refused to give the uplift, stating that the apportionment of matrimonial assets must generally be based on the contributions of the parties, not on account of their health unless exceptional circumstances are present. In any event, on the facts, it appeared that the husband had the financial means to maintain himself.

51 The rationale for distinguishing between long single-income and dual-income marriages is to ensure that, in line with the "rewarding effort" principle, the effort expended by a spouse is appropriately rewarded. As was observed in *TNL v TNK*,[54] the *ANJ* approach tends to unduly favour the working spouse over the non-working spouse, as financial contributions are given recognition under steps 1 and 2 of the *ANJ* approach – for the former step, in the form of direct financial

51 *ANJ v ANK* [2015] 4 SLR 1043 at [22].
52 Section 11(2) of the Women's Charter 1961 sets out the factors that the court must have regard to when deciding on a just and equitable division of the matrimonial assets.
53 [2024] SGHCF 27.
54 [2017] 1 SLR 609 at [44].

contributions to acquire the matrimonial assets, and for the latter step, in the form of indirect financial contributions (*eg*, paying for utilities, groceries, *etc*). This means that the non-working spouse would be "in this sense, doubly (and severely) disadvantaged".[55] The *TNL* approach would allow the court more leeway to reward the indirect contributions of the non-working spouse.

(1) Shorter single-income marriage

52 As stated above, the *TNL* approach seems to have been used even for shorter single-income marriages. However, there is one case of a shorter single-income marriage where the *ANJ* approach was applied, *ie*, *TQU v TQT*.[56]

53 In this case, the parties had been married for 26 years (from 1990–2016), but the marriage had broken down much earlier, after about 11 years, when the wife left the matrimonial home. The wife argued that the marriage was a long single-income one in which the court should incline towards equal division of the matrimonial assets. However, the Court of Appeal found that the marriage was not a typical long one, given that the wife had moved out after 11 years and her indirect contributions were actually negative (*eg*, she had filed many complaints against the husband, including one which resulted in a criminal trial against the husband (for corruption and other regulatory offences) in which she was a prosecution witness – the husband was acquitted, with the trial judge finding that the wife's evidence was "absurd and ludicrous" and that she had been "most eager" to concoct evidence to cause damage to the husband). The eventual indirect contribution ratio was held to be 80:20 in the husband's favour. Both parties had worked at the clinic set up by the husband (who was the resident doctor at the clinic) in 1991, until it was closed in 2003 (and the husband became a stay-at-home parent). This was a marriage where a single spouse (the husband) had more substantial direct and indirect contributions relative to the other (the matrimonial assets were about $13.6m, emanating from the clinic earnings, the husband's inheritance and gifts to the husband). The direct financial contributions ratio was 90:10 in the husband's favour. Therefore, the *ANJ* approach was preferred.

54 The difference between this case and the other shorter single-income marriage cases where the *TNL* approach was used seems to be the paucity of the wife's indirect contributions. It appears from this case that the *ANJ* approach might be used for shorter single-income marriages

55 *TNL v TNK* [2017] 1 SLR 609 at [44].
56 [2020] SGCA 8.

where: (a) there was an exceptionally large pool of matrimonial assets mainly earned by one party; (b) where one spouse had more direct and indirect contributions; *and* (c) the other spouse's indirect contributions were very low or even negative in value.

B. What is dual or single-income marriage?

55 In deciding if a marriage is a dual or single-income one, the focus is on the capacity to contribute rather than the actual contribution. Thus, if the spouse could have contributed towards the household finances (even though he did not), it counts as a dual-income marriage.

(1) WQR v WQS

56 The parties in *WQR v WQS*[57] were married for almost 30 years. At the time of the divorce, they had two daughters, both of whom were adults; the wife was still working, but the husband had retired for about a year. Prior to retirement, the husband had run his own businesses. The wife's case was that she had worked throughout the marriage and was the main breadwinner. She said that she had paid for all the family expenses, and that she and her father had also helped provide financial support to the husband for his businesses. Whatever the husband earned, he would keep for himself and spend it on his mistress instead of the family. The husband apparently did not draw a salary for about five years of the marriage. Since the husband appeared to have barely contributed financially to the family, this would seem to weigh in favour of this being considered a single-income marriage.

57 However, the High Court held that the more principled approach to the question of whether a marriage ought to be considered single-income or dual-income is to focus on the *capacity* to contribute – *ie*, whether the parties were drawing an income and therefore *able* to make financial contributions towards the family, rather than their actual contributions.

58 A focus on actual rather than potential capacity for financial contributions would allow a spouse who is drawing an income to avail himself of a more favourable methodology for division of assets (*ie*, the *TNL* approach) while enjoying all of that income for himself, by simply declining to contribute such income towards the family and rendering himself a "non-working spouse". This would place a spouse who can, but

57 [2023] SGHCF 41.

declines to, financially contribute to the family, in a better position than one who can and does in fact so contribute.

59 On the facts of this case, the court found that the husband did have some form of income which he could have contributed to the marriage. Although he claimed that he did not draw any salary for a long period of time, the court said that it was difficult to believe that a self-employed businessman could have gone unremunerated for more than 20 years, given his claims that he had been awarded various big projects, and was also able to purchase a couple of properties in Malaysia, and had an average of about $1,200 of personal expenses per month. He also had income streams from certain investments. On this basis, the court considered that this was a dual-income marriage.

(2) Proportion of time spouse worked during marriage

60 The proportion of time a spouse has spent working during the marriage is one indicator of whether it is a dual or single-income marriage.

61 In *TYU v TYV*,[58] the wife worked for about 15% of the duration of the marriage and it was held that the marriage was a dual-income one. The court said that this was not a case falling within the long single-income marriage category, because the wife had worked for three years at the start of the marriage (about 15% of the length of the marriage) and had some financial contributions.

62 In *UVF v UVG*,[59] the wife worked for about 7.7% of the duration of the marriage and it was held that the marriage was a single-income one. This case featured a 26-year-long childless marriage. During the marriage the wife worked for six years only, and then stopped to try for a child (she underwent in vitro fertilisation which was not successful and then gave up on having children when she turned 40), so the court considered that it was a single-income marriage, rather than a dual-income one. The matrimonial assets (about $14.5m) were mostly earned by the husband.

63 These cases suggest that if the wife has some financial contributions to the matrimonial assets and works more than 10% of the duration of the marriage, it is likely to be a dual-income marriage. However, it is submitted that it would be too simplistic to say that there is a "10% work rule" or anything of the sort. The cases set out in the following section focus less on the proportion of time a spouse spent

58 [2017] SGHCF 8.
59 [2019] SGHCF 21.

working during the marriage but focus more on the roles played by the spouses in the marriage relative to each other (*ie*, primary homemaker or primary breadwinner, or whether each did a bit of both). Towards this end, the regularity and intensity of the job and what the spouse spent most of his or her time doing during the marriage, and what their main "value add" to the family was, are important factors to consider.

(3) Qualitative assessment of roles: what was primary focus of each party?

> A marriage may still be classified as Single-Income even if the homemaker spouse worked for some time in a long marriage; what matters is the qualitative assessment of the roles played by the spouses relative to each other.[60] [reference added]

(a) *UYD v UYE*: wife worked for 20% of duration of marriage, but still considered primary homemaker

64 In *UYD v UYE*,[61] the court held that the parties' 26-year-long marriage was a single-income one, notwithstanding that the wife had worked full-time for five years after marriage, and spent another eight years doing part-time or freelance work (so, she had worked for at least 20% of the duration of the marriage, full-time). Her part-time work was with a company set up by her husband. She did administrative work for about two to three hours, two to three times a week. She started to work less, and later stopped work because she was caring for the children, particularly the third son who was often ill. However, she continued to receive a salary and director's fees from the company even after this and was listed as an employee of the company – but she did not do any actual work. The court held that the wife's primary role was as a homemaker, and there was a clear demarcation between the roles of each spouse, as the husband's primary focus was on his business. Although he helped with the children, it was his breadwinning role that was his main contribution to the family.

(b) *WTS v WTR*: wife worked for about 20%–25% of duration of marriage, but still considered primary homemaker

65 In *WTS v WTR*,[62] the Family Division on appeal decided that the marriage was a single-income marriage. The wife's earning capacity of $1,800 (from conducting cooking classes and tours of Little India) paled in comparison to the husband's earning capacity of $15,555 a month. The

60 *UBM v UBN* [2017] 4 SLR 921 at [52].
61 [2019] SGHCF 20.
62 [2024] SGHCF 33.

wife was also homemaker for most of the marriage – the cooking classes and tours were something she only did for about three years during the marriage which lasted 11–12 years.

(c) *VIG v VIH*: wife worked for about half of marriage, still primary homemaker – husband's direct financial contributions dwarfed hers

66 *VIG v VIH*[63] featured a 12-year-long marriage, with two children aged about two and 12 years at the time of the divorce. The wife was a homemaker at the time of the divorce, but she had worked as a lawyer for about five to six years during the marriage. The husband was a company chairman and a high earner.

67 The court treated this as a single-income marriage even though the wife had worked for slightly under half of the marriage. The reason was because the wife was a homemaker in the period when the husband was working in a company and saw a massive increase in the wealth of the family arising from his work with that company. This increase in wealth dwarfed the wife's financial contributions to the marriage. The court said it was artificial to treat this as a dual-income marriage, since the income of each was so disparate.[64] The husband provided at least 96% of the direct financial contributions to the matrimonial assets. The court listed the wife's indirect contributions but did not assign a numerical value to them, since the *ANJ* approach was not being used. The *TNL* approach was used instead.

(d) *CLT v CLS*: *no regular job, only did investments*

68 In *CLT v CLS*,[65] the wife had received some yields from rent and investments during the marriage (approximately $13,000 a month), but she did not have a regular salaried job. She was the homemaker while the husband was the sole breadwinner. The court held that the marriage was therefore a single-income one. Thus, although the wife earned a considerable amount in passive income, the fact that she did not have to spend time working, and could and did spend that time caring for the family, made her the primary homemaker.

63 [2021] 3 SLR 1145.

64 However, see *WXW v WXX* [2024] SGHCF 24 at paras 74–78 below, where the court held that a large income disparity between the parties did not automatically make the marriage a single-income one.

65 [2021] SGHCF 29. This case had gone on appeal to the Appellate Division in *CLS v CLT* [2022] 2 SLR 1043, however the issue of whether the marriage was a single or dual-income one was not the subject of the appeal.

(e) *DBA v DBB*: primary breadwinner making significant homemaking contributions does not make him joint homemaker

69 In *DBA v DBB*,[66] the parties were married in 1990. The marriage lasted for 31 years. They had three children, one of whom was still a minor at the time of the divorce. The wife worked as an insurance agent on a full-time basis from 1991–1997. She had taken on contract work with a "Temp Agency" from 2001, and thereafter worked in her own business from 2003–2013 before transiting back to contract work (with the exception of a two-year stint of full-time work from 2005–2006). The wife's business was a small home-based handicraft business, which allowed her to take care of the children while earning a side income. On the other hand, the husband had been in full-time employment until 2016, and after that was engaged in contract work.

70 The Appellate Division found that the wife had taken on more flexible (but less remunerated) work in order to have time to care for the three children (*eg*, she took a year-long maternity leave after the birth of each of her children to care for them). On the facts of the case, the Appellate Division found that the wife was primarily the homemaker for the majority of the marriage. Hence, this was a single-income marriage.

71 The Appellate Division acknowledged the husband's extensive involvement in the family, such as contributing actively to the household chores, fetching the children to and from their activities and tutoring the children. After the husband left full-time employment in 2016, he also performed the household chores.

72 The Appellate Division observed, however, that the main breadwinner's involvement as a parent to some extent, or his substantial contributions to the financial welfare of the family would not, in themselves, render that party a primary or "joint" homemaker.

(f) *WSY v WSX*: wife worked for most of marriage, hence not primary homemaker

73 In *WSY v WSX*,[67] the parties were married in 2003. The marriage lasted for 19 years. The parties had three children to the marriage. The wife was the primary caregiver of the children, though she was aided from time to time by domestic helpers. However, the wife was employed from

66 [2024] 1 SLR 459.

67 [2024] SGHCF 21. This was issued after *DBA v DBB* [2024] 1 SLR 459, which was considered in this judgment.

2003–2012, and she later worked in a retail shop which was a partnership equally owned by the parties and run predominantly by the wife from 2014–2021. The shop required the wife's attention for a significant part of the day. Given that the wife had worked for a considerable part of the marriage (about 16 out of 19 years), and she had made direct and indirect financial contributions to the marriage, the Family Division held that the marriage ought to have been classified as a dual-income marriage, in which case, the *ANJ* approach would apply.

(g) *WXW v WXX*: husband had intermittent employment, but was still primary homemaker

74 In *WXW v WXX*,[68] the length of the marriage was almost 35 years. The wife worked full-time for the entirety of the marriage. The husband was unemployed. He had left his full-time job about nine years into the marriage. Since then, the husband had taken part in various business undertakings, which included running a home-delivery service for a year and conducting *ad hoc* classes on financial markets without charge for four years.

75 The wife argued that the marriage was a dual-income marriage because the husband had made direct financial contributions when the parties acquired their first matrimonial property. The husband was employed at that time. The wife further argued that while the husband was "unemployed", he was not a "house husband" since he had taken part in several business undertakings during the course of the marriage. Accordingly, she wanted the *ANJ* approach to apply. The Family Division rejected the wife's arguments.

76 The Family Division held that the words "Single-Income Marriage" must be interpreted in accordance with the facts and circumstances of each case. There must be a qualitative assessment of the roles played by each spouse in the marriage relative to the other.

77 The Family Division accepted the husband's argument that the marriage was a single-income one, with the wife being the sole breadwinner. The Family Division held that the mere fact of a spouse having intermittent employment does not preclude the spouse from being the primary homemaker. In addition, a spouse who had made substantial financial contributions to acquire matrimonial assets could still be regarded as a homemaker in a single-income marriage.

68 [2024] SGHCF 24. This was issued after *DBA v DBB* [2024] 1 SLR 459, which was considered in this judgment.

78 In this case, the nature of the husband's business undertakings was consistent with his account that he had the time and capacity to care for the children. Therefore, the *TNL* approach should apply. The Family Division, however, rejected the husband's argument that a large income disparity between the parties would automatically render a marriage a single-income marriage.

(h) Summary

79 From the cases above, it seems that the key question to ask in deciding whether a marriage was a single or dual-income one is what the roles were played by the parties relative to each other – *ie*, whether it was a case where one party was primarily the breadwinner, and the other primarily the homemaker. Factors to be considered include:

(a) the percentage of time a spouse worked during the marriage;

(b) the regularity and intensity of the job;

(c) what each spouse spent the most time doing, and their greatest "value add" to the family during the marriage; and

(d) whether there was a large income and/or direct financial contributions disparity between the spouses.

However, no one factor is determinative – each case depends on its own facts.

VI. Factors affecting weighting of direct and indirect contributions in *ANJ* approach

80 The Court of Appeal in *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast*[69] ("*Twiss*") reaffirmed *ANJ* and applied its principles. The judge below had used the uplift method (*ie*, taking the direct financial contributions ratio as a starting point, and then adjusting that for indirect contributions). The Court of Appeal specifically disapproved of this. After getting the ratio of direct financial contributions and the ratio of indirect financial contributions, the Court of Appeal then considered whether to give greater weight to direct financial or indirect contributions. They approved what the court in *ANJ* said on this issue, which is:

(a) that indirect contributions carry greater weight when it is a long marriage;

69 [2015] SGCA 52.

(b) that direct financial contributions carry greater weight when the pool of assets is exceptionally large and acquired largely by one party's efforts; and

(c) that the courts tend to lean in favour of a homemaker who has painstakingly raised children into adulthood at the expense of her career.

81 On the point in para 80(c) above regarding the homemaker sacrificing her career to care for the family – it should be noted that *Twiss* was heard a couple of years before *TNL*. It is submitted that such a case should and would now be dealt with under the *TNL* approach, and not under the *ANJ* approach.

82 The weighting between direct and indirect contributions is intended to ensure that the most appropriate reward is given to the different types of contributions – by giving more weight to the type of contributions which added the most value to the family.

A. Marriage length: short or shorter marriages

83 In accordance with the point at para 80 above, marriages on the shorter side would generally have a higher weighting for direct financial contributions, since there would be less time for the parties to make indirect contributions.

(1) WGW v WGX*: zero weighting for indirect contributions, 100% for direct financial contributions*

84 In *WGW v WGX*,[70] the parties were only married for about 3.5 years, with no children. The only matrimonial asset they had was the matrimonial home.

85 The court was of the view that the indirect contributions were minimal, as the parties did not go through with the customary traditions of marriage, there was no consummation and no children to take care of. There was a dispute on whether they had lived together at all during the marriage, but the court was of the view that even if the parties had resided together physically, they had been unable to get along from the start, and "the consortium of marriage failed before it even had the opportunity to form".[71] Therefore, the court gave no weight to the indirect contributions by either party.

70 [2023] 5 SLR 652.
71 *WGW v WGX* [2023] 5 SLR 652 at [7].

86 The court therefore held that the matrimonial assets should be divided in the ratio of 33.29:66.71 (husband to wife), based entirely on their direct financial contributions.

(2) UJF v UJG

87 *UJF v UJG*[72] featured an approximately four-year-long marriage with no children, where the husband's direct financial contributions to the wife's were 70:30 in the husband's favour. Because it was a short marriage, the weighting in favour of direct financial contributions was 75:25. The matrimonial asset pool was worth about $11m.

(3) USB v USA

88 *USB v USA*[73] featured a five-year-long marriage with no children, and the ratio of the wife's direct financial contributions to the husband's was about 95:5 in the wife's favour. The Court of Appeal gave a weighting of 70:30 in favour of direct contributions. The matrimonial asset pool was worth about $10m.

(4) WUI v WUJ*: indirect contributions generally unimportant for marriages less than three years long, but not hard and fast rule*

89 In *WUI v WUJ*,[74] the parties were married for 10.5 years, but had only lived together for about 8.5 years. During the marriage, they lived in the husband's parents' home and rented out their matrimonial home to the wife's parents for about seven years before they sold the matrimonial home. They had no children. The wife eventually moved out of the husband's parents' home after the marriage soured beyond the point of no return.

90 The court below had characterised the marriage as a short one and decided that only direct financial contributions should be considered in the division of the matrimonial assets. The Family Division on appeal disagreed with this. The Family Division said that it was not particularly useful to characterise a marriage as "short", "long", or "moderate length". Each case would have to be considered on its own facts, to see what contributions the parties had made during the marriage. Generally, indirect contributions would be unimportant for marriages which were less than three years long. However, this was not a hard and fast rule, and it is possible that the parties might have given each other a lot of help

72 [2019] 3 SLR 178.
73 [2020] 2 SLR 588.
74 [2024] 5 SLR 979.

and support during this time. If a marriage was longer than three years, then generally some weight must be accorded to indirect contributions. This was true even if there had been no children to the marriage, as "[m]arriage, in most cases, serves as a supportive approach within which husband and wife pursue their professional careers".[75] In this case, the parties' direct financial contributions were 6.67:93.33 (wife to husband), and the Family Division found on the facts that the indirect contributions were roughly equal. The weighting given was 80:20, in favour of direct contributions. The matrimonial asset pool was worth less than $3m.

91 The key point of this case is that it is not particularly useful to label a marriage as short or long. The important enquiry is on what had been done by the parties during the marriage to treat it as a "cooperative partnership for mutual benefit". It will be a harder case to make that indirect contributions should be taken into account for a marriage which is less than three years long, especially if there are no children, but it is not impossible. It all depends on the facts of the case.

(5) Overview

92 However, if the marriage is not an obviously "short" one, it seems that the starting point would be equal weighting between direct and indirect contributions. Certainly, for long marriages, this would be the case. In *WWM v WWN*,[76] the marriage in this case was a long one of 41 years, with two adult children. Equal weight was given to the direct financial and indirect contributions. In the case of *VRJ v VRK*,[77] the court stated that for a 12-year-long marriage (until the parties separated), the starting point is that equal weight should be given to both direct and indirect contributions. The disparity in direct financial contributions between the parties appears to be a factor in deciding the weighting. For *UJF v UJG, USB v USB* and *WUI v WUJ*, there was a significant disparity between the direct financial contributions of both parties (ranging from 70% to over 90% for the spouse who made more contributions). In *VRJ v VRK*, however, the direct financial contributions between the parties were equal.

93 In summary, it appears that for short or shorter marriages, a higher weighting would be given to direct financial contributions, with even higher weightings for direct financial contributions for cases where the parties did not appear to have much of a shared life together, or give each other help and support, and where there was a significant disparity

75 *WUI v WUJ* [2024] 5 SLR 979 at [56].
76 [2024] SGHCF 27.
77 [2024] SGHCF 29.

in the parties' direct financial contributions. None of the cases reviewed above featured an exceptionally large matrimonial asset pool mainly earned by one party – but it is submitted that this factor would lead to an even higher weighting for direct financial contributions, on the "no windfall" and "rewarding effort" principles.

B. Marriage length: quality rather than quantity

94 The official length of a marriage (from date of registration of marriage to the date of the IJ) is not the same thing as the length of time the marriage was a going concern (*ie*, when the parties were living together and had a co-operative marital partnership). The relevant the length of the marriage for the purpose of deciding the weighting between direct financial and indirect contributions is the latter (*ie*, when the marriage was a going concern). The factors to be considered include whether there were children to the marriage, who did the caregiving duties, whether the parties had domestic help, whether they had joint finances, did joint activities together and had a shared life together in various aspects.

(1) ATE v ATD – *75:25*

95 In *ATE v ATD*,[78] both parties worked full-time, with the wife having the more financially rewarding career. The marriage lasted about five years, from 2008–2013. The parties were childless for the first three years of the marriage, during which they had part-time help. The husband moved out of the matrimonial bedroom shortly after their child was born in 2011; he moved out of the matrimonial home in January 2013. In looking after the child, the parties had the assistance of both a full-time maid and the wife's mother (who had moved in with them).

96 Even when they lived together, the parties had kept their finances apart. The wife never depended on the husband financially during the marriage. The court found that the husband was a calculating man and, indeed, the wife also said that he was "extremely stingy with his finances". In a rather businesslike way, he made sure that she paid her share of the household expenses and even when they went shopping together, he would keep track of the expenses and then seek reimbursement from her afterwards if he had made the upfront payment.

97 The court held that given that the marriage was a short one, that both husband and wife were working, the manner in which they had conducted their lives during the marriage itself, and that there was

78 [2016] SGCA 2.

a not inconsiderable amount of assistance on the domestic scene, the appropriate ratio between direct and indirect contributions ought to be 75:25.

(2) WNW v WNX – *2:1*

98 In *WNW v WNX*,[79] the husband argued that the lower court erred in giving an 80:20 weightage between direct and indirect contributions (the wife's direct contributions were considerably greater than the husband's). The reason for this was because although the parties had been married for 31 years, they had been separated for 26 years. The husband therefore argued that a 50:50 weightage would be more appropriate. The Family Division on appeal changed the weighting to 2:1 in favour of direct contributions, however, taking into consideration the fact that although the parties had led independent lives for a long period, they had a child and both parties had made contributions towards the care of the child.

(3) WUI v WUJ – *80:20*

99 In *WUI v WUJ*,[80] the court considered that the parties had a marriage which was on the shorter side (they had separated after about nine years), that they had had the help of domestic helpers throughout the marriage, and that they had not made much effort in building a shared life together (each party seemed to have had their own friends and pursued their own activities without the involvement of the other party, for much of the marriage). Neither was there sufficient evidence that the matrimonial asset pool was very large, and earned entirely through the efforts of one party. Taking into account all these factors, the court decided that an 80:20 weighting between direct and indirect contributions would be fair.

C. Marriage length: longer marriages with large asset pool earned mainly through one party's efforts

100 According to *Twiss*, indirect contributions should carry greater weight when it is a long marriage.[81] However, this is opposite to the principle, also in *Twiss*, that financial contributions carry greater weight when the pool of matrimonial assets is exceptionally large and acquired largely by one party's efforts.[82] In the case of a long marriage with an

79 [2024] 3 SLR 1761.
80 [2024] 5 SLR 979.
81 *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 at [21].
82 *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 at [21].

exceptionally large pool of matrimonial assets acquired largely by one party's efforts, the "clash" between the two principles still results in a higher weighting for direct financial contributions, but not as high as for shorter marriages – in the 55%–60% range rather than the 70%–80% range – as can be seen from the two cases below.[83]

(1) BPC v BPB

101 *BPC v BPB*[84] featured a 17-year-long dual-income marriage with two children, and the ratio of the husband's direct financial contributions to the wife's was 85.6:14.4. The pool of matrimonial assets was valued at $35m. A weightage of 60:40 was given in favour of direct contributions.

(2) TYU v TYV

102 In *TYU v TYV*,[85] the marriage was about 20 years long, with the wife working for three years at the start of the marriage. They had one daughter, aged 16 at the time of the divorce. The ratio of the wife's direct financial contributions was 7% to the husband's 93%. The weightage given to the direct financial contributions *versus* the indirect financial contributions was 55:45. The matrimonial assets were valued at more than $20m, and largely acquired through the husband's efforts. The court also noted that in order to pay the wife her share of the assets, the husband would have to borrow money against his business assets. Hence, the court gave a slightly greater weight to the direct financial contributions. The weight given to the direct financial contributions was not greater, however, as the court considered that the business which provided most of the assets was started during the marriage and grew the most while the parties were living together, during which time the wife was heavily involved with caring for the daughter and running the household. The daughter would also continue to live with the wife after the divorce.

(3) WWM v WWN

103 In contrast, in *WWM v WWN*,[86] the marriage was a long one of 41 years, with two adult children. However, the pool of matrimonial assets was only valued at $3.74m, with the direct financial contributions as 29.1:70.9 in the husband's favour – thus, it was not an exceptionally large asset pool, acquired largely through the husband's efforts (the wife's

83 Though see *TND v TNC* below, where an equal weighting between direct financial and indirect contributions was given for a large asset pool earned mainly through one party's efforts, for a marriage of a shorter duration.

84 [2019] 1 SLR 608.

85 [2017] SGHCF 8.

86 [2024] SGHCF 27.

direct financial contributions were not insignificant). Equal weight was given to the direct financial and indirect financial contributions.

D. Different weightings for different contribution levels

104 It is possible to give different weightings for direct financial and indirect contributions for different classes of assets which have different contribution levels.

(1) TND v TNC

105 In *TND v TNC*,[87] the parties' marriage lasted about 13 years, with one child. The High Court had divided the matrimonial assets into two groups, with Group A (more than $20m worth of assets) being assets acquired with significant direct financial contributions from both parties – 85:15 (husband to wife); and Group B (about $12.5m worth of assets) being assets acquired largely through the husband's direct financial contributions (95:5 (husband to wife)). For Group A, equal weight was given to direct financial and indirect contributions, but for Group B, the judge gave greater weight to the direct contributions, since they were a large pool of assets acquired largely through the husband's exceptional efforts. Hence, the ratio of division of the Group B assets was 80:20 in the husband's favour, rather than the 65:35 ratio (in the husband's favour) it would have been if equal weighting had been given to the direct and indirect contributions for the Group B assets.[88] The weightings for the Group A and Group B assets were not disturbed on appeal to the Court of Appeal.[89]

87 [2017] SGCA 34.

88 The indirect contributions were 65:35 in the wife's favour: *TNC v TND* [2016] 3 SLR 1172 at [60].

89 This author's observation is that the equal weighting for direct financial and indirect contributions for the Group A assets is generous, when contrasted with the higher weighting for direct financial contributions in *BPC v BPB* [2019] 1 SLR 608 and *TYU v TYV* [2017] SGHCF 8 set out above, particularly because this was a marriage on the shorter side, and the disparity between the husband's direct financial contributions and the wife's was quite large.

E. Final ratio: no inclination to equality of division for short marriages

106 It seems that under the *ANJ* approach, the court should follow the results of the approach and not tweak the numbers to bring about an equal division of the matrimonial assets, at least for short marriages:[90] "… we reject the argument that the court should incline towards equality of division in short marriages …".

F. Apparently no inclination to equality of division for long marriages either, though ANJ *approach is not to be rigidly applied*

(1) UYP v UYQ *(Family Division) and* UYQ v UYP *(Court of Appeal)*

107 This case featured a long dual-income marriage. The parties were married for nearly 35 years. They had about $14.9m worth of matrimonial assets. The Family Division found that the direct financial contributions were 65:35 in the wife's favour, and the indirect contributions were 70:30 once again in the wife's favour. The husband was overseas for many years and also had business failures. Under the *ANJ* approach, the ratio of division would be 67.5:32.5 in the wife's favour. However, instead of following this ratio, the court ordered a 60:40 split in the wife's favour.

108 There is a long discussion in the Family Division's judgment in *UYP v UYQ*[91] about how long single-income and long dual-income marriages incline towards equality, and that it is unfair to apply the *ANJ* approach in a rigid manner to long dual-income marriages, but not long single-income marriages, as this could lead to unfairness.[92] The court noted that the *ANJ* approach is a "useful guide", but must not be rigidly followed. The broad-brush approach must be used. In this case, both parties had contributed to the marriage, even though the wife had contributed somewhat more. The philosophy to be adopted is of marriage as an equal co-operative partnership of different efforts. A 60:40 split acknowledged each party's contributions and this partnership philosophy, while also taking into account the wife's greater contributions. The court also noted an "immeasurable gain" that the wife had from the marriage, which was her closeness to and the loving support of her sons.

90 *USB v USA* [2020] 2 SLR 588 at [37].
91 [2020] 3 SLR 683.
92 Because then a spouse who works but earns much less than the other spouse and who also makes her fair share of the indirect contributions, would be worse off than a spouse who never worked, and had made only indirect contributions.

109 However, on appeal, the Court of Appeal in *UYQ v UYP*[93] decided to go with the original ratio of 67.5:32.5 under the *ANJ* approach, given the wife's considerable contributions. It seems that they were sympathetic to a wife that not only paid more than the husband to purchase the assets, but also did more around the house. The Court of Appeal declined to state whether they had a view on the proposition that in long dual-income marriages there should be an inclination towards equal division. They said that even if they agreed with this proposition, one should still look at the facts and circumstances of the individual case.

(2) TOT v TOU

110 In *TOT v TOU*,[94] the High Court judge had adjusted the parties' contributions ratio of 50.75:49:25 (wife to husband) (under the *ANJ* approach) by 0.75% to reach a final contributions ratio of 50:50 between the parties. The judge said that this was warranted because it was a long marriage of 17 years with two children, and according to *UBM v UBN*,[95] there would be an inclination towards equal division for long dual-income marriages where appropriate. The Appellate Division disagreed. It said that it would not interpret *UBM v UBN* for the proposition that the court is entitled to further adjust the parties' average ratios after applying the *ANJ* approach, for the sole purpose of reaching an equal or more equal division between the parties. In the present case, the fact that this was a 17-year-long marriage with two children had already been considered by the judge in his application of the *ANJ* approach, so there was no basis to further adjust the parties' average ratios to 50:50 using the same point.[96]

G. Summary

111 It seems from the cases above that when deciding whether to give a higher weighting to direct financial contributions *versus* indirect contributions, the court would be inclined to give such higher weighting if:

(a) It is a short marriage (under five years, and especially under three years).

(b) The parties led very independent or separate lives, even if they had been married for a long time.

(c) The matrimonial asset pool was very large and acquired mainly through one party's efforts.

93 [2020] 1 SLR 551.
94 [2021] SGHC(A) 9.
95 [2017] 4 SLR 921.
96 This author's view is that it appears from this case that if the court wants to do a 50:50 split, it will have to do so when applying the *ANJ* approach itself.

112 None of these factors is determinative, however, and each case would have to be decided on its own facts. The court will also not incline to equality of division for short marriages and probably would not do so for long marriages either.

VII. Under *TNL* approach, what factors affect ratio of division?

113 The task of the court using the *TNL* approach is the same as that of the court using the *ANJ* approach, which is to effect a just and equitable division of the matrimonial assets. The difference is that there is no mathematical formula to apply in a *TNL* approach-type of case. However, it seems that the factors relevant to the issue of weighting between direct financial contributions and indirect contributions for an *ANJ* approach-type of case are the same ones that the court would consider when deciding on the division of matrimonial assets under the *TNL* approach, namely, the length of the marriage and whether there is a large pool of assets largely earned by one party. It also seems that the inclination to equality of division is far from a hard and fast rule for *TNL* approach cases, even for long marriages. It is submitted that this is because the "no windfall" and "rewarding effort" principles are equally applicable to the *TNL* approach-type of cases, as they are to the *ANJ* approach-type of cases.

A. Marriage length and percentage of division

114 The following case sets out how different lengths of marriage affect the percentage of division of the matrimonial assets.

(1) BOR v BOS

115 In *BOR v BOS*,[97] the parties were married for about 11 years. The wife was a homemaker. There were two sons to the marriage aged 14 and 12 at the time of the divorce. The husband relocated to China about seven years into the marriage, leaving the wife to single-handedly raise the children and run the household.

116 The Court of Appeal said that a long marriage was about 26–30 years long. The marriage in this case was not considered long. A "moderately lengthy" marriage was about 15–18 years long, and the trend was to award the homemaker wife in such cases about 35%–40% of the matrimonial assets. For marriages of shorter duration (around ten to 15 years long), the trend appears to be towards awarding the non-income

97 [2018] SGCA 78.

earning party about 25%–35% of the matrimonial pool. In this case, the marriage was at the shorter end of the ten to 15-year range, but the wife was not a typical homemaker, as she became solely responsible for caring for the family after the husband left for China. She cared not just for the children but the husband's aged parents and daughters from a previous marriage when he was overseas. Hence, the appropriate award for the wife was 35%.

117 The court in *XFD v XFE*[98] also opined on how different lengths of marriage affect the percentage of division of the matrimonial assets. In this case, the husband used to work during the marriage but had retired by the time of the divorce proceedings. The wife was a Singapore citizen and homemaker for most of the marriage. Hence, it was a single-income marriage. They had one son, aged 22 years. The marriage lasted about 21 years, before the husband moved out.

118 The General Division stated that for marriages of around 15–18 years, the homemaker wife would generally be awarded about 35%–40% of the matrimonial assets; for marriages lasting 26 years or more, it would tend to be an equal division. For marriages between 18–25 years long, it would be appropriate to award the homemaker wife about 40%–50% of the matrimonial assets. However, each case would depend on its own facts.

119 In this case, the husband made more direct and indirect financial contributions than the wife, but the wife's indirect non-financial contributions were much greater than the husband's – the husband had to travel often for work, and the wife took care of the family for extended periods of time, with support from part-time and full-time helpers at different points in time. The court ordered a 55:45 split in the husband's favour.

120 The following two cases involve long marriages, where equal division of the matrimonial assets was ordered under the *TNL* approach.

(2) UTS v UTT*: quintessential long single-income marriage*

121 In *UTS v UTT*,[99] the couple were married for about 44 years at the time the divorce was filed, and lived together for about 39 years before they started leading separate lives. They had three children. The wife had been a housewife throughout the marriage, and the husband had been the sole breadwinner. All in, there were about $7m worth of assets.

98 [2024] SGHCF 43.
99 [2019] SGHCF 8.

122 The court held that this case involved a "quintessential long single income marriage", and that applying the approach in *TNL*, the pool of assets should be divided equally. The court noted that the husband's career took him to many countries all over the world, and the wife and children followed him, with the wife caring for the children and running the household. This was particularly challenging in the early days of the marriage when the children were very young and the husband was posted to Khartoum, Sudan, from 1975–1978, when they experienced food and petrol shortages. The wife did not always have domestic help. The husband's time was mostly spent in furthering his career and acquiring the matrimonial assets.

(3) WPK v WPJ*: long marriage with children, assets largely contributed by one party (but not unusually large pool of assets)*

123 In *WPK v WPJ*,[100] the parties were married for about 23 years. There were two adult sons of the marriage. The wife was a homemaker for most of her marriage, assisted by a domestic helper. The court stated that in long, single-income marriages like this one, where the non-working spouse was the primary homemaker during the marriage, it is generally fairer and more equitable for the matrimonial assets to be divided equally. The fact that the wife was assisted by a domestic helper throughout the marriage and that the husband had a close relationship with the children did not diminish her non-financial contributions to the marriage.

124 The husband's counsel had submitted that the husband's efforts in building up the matrimonial assets warranted an upward adjustment in his favour. The court stated that such upward adjustment should only occur in special situations where the assets available for division were extraordinarily large and obtained due to one party's exceptional effort. For example, matrimonial assets valued at around $20m, $36m, $42m and $68m (figures taken from actual cases). In these situations, the husband was an entrepreneur who put in exceptional effort and skill to enlarge the matrimonial assets. In this case, however, the bulk of the matrimonial asset pool was derived from the matrimonial home.[101]

B. Equality of division is not hard and fast rule, even for long marriages

125 Notably, equal division of the matrimonial assets was not ordered in any of the cases below, even though all of them featured long marriages.

100 [2024] 4 SLR 1198.

101 It was not stated in the judgment how much exactly the matrimonial assets were worth.

Factors leading to a larger share for one party included whether there was an unusually large pool of assets mostly earned by that party (or even if it was not an unusually large pool of assets, that it was mostly earned by that party), and whether that party also had made significant indirect contributions.

(1) UYD v UYE*: long marriage with children, unusually large pool of assets mostly earned by one spouse*

126 In *UYD v UYE*,[102] the divorcing couple had a 26-year-long marriage with three sons aged 23, 19 and 17. The wife was a homemaker. The matrimonial assets amounted to the very large sum of $34m. The court decided to split the matrimonial assets 55:45 in the husband's favour, taking into account the fact that it was a large pool of assets and most of it was earned through the husband's efforts. It also took into account the husband's help with the children, as well as the wife investing her savings into the husband's business to set it up, in the earlier days of the marriage.

(2) UVF v UVG*: long childless marriage, large pool of assets mostly earned by one spouse*

127 In *UVF v UVG*,[103] a case involving a 26-year-long childless marriage, the matrimonial assets (about $14.5m) were mostly earned by the husband. The court divided the assets 62.5:37.5 in the husband's favour. The court took into account the length of the marriage, the wife's (unsuccessful) efforts to try and conceive, the fact that the wife was thrifty and budget conscious so that her decision not to work did not place the family's finances at risk, and that the husband's earning power far exceeded whatever the wife might have earned had she returned to work, the wife's homemaking efforts (not substantive, but she played "some managerial role" as she ran the household with domestic help), and the wife extending Singapore Island Country Club spousal privileges to the husband whose hobby was golf.

(3) WDO v WDP*: long marriage with children, assets largely contributed by one party who also made more indirect contributions (but not unusually large pool of assets)*

128 In *WDO v WDP*,[104] the parties were married for 31 years, with three adult children. The husband was a banker and the wife was a full-time

102 [2019] SGHCF 20.
103 [2019] SGHCF 21.
104 [2022] SGHCF 11.

homemaker. The pool of matrimonial assets was valued at $8.7m, $6.7m of which was inherited by the wife in the form of the matrimonial home.

129 The court decided to divide the matrimonial assets in the ratio of 55:45 in favour of the wife. This was because the wife was the primary caregiver of the family who chose to sacrifice her career to devote all her time and energy to raise the parties' children. The husband was preoccupied with work and frequently overseas. The court also took into account the assets given to the wife by her late mother.

(4) WXW v WXX*: long marriage, assets largely contributed by one party who also made significant indirect contributions (but not unusually large pool of assets)*

130 In *WXW v WXX*,[105] a case involving an approximately 34-year-long marriage with three children, the husband was the primary homemaker and had intermittent employment.

131 The Family Division held that although the court will generally tend towards an equal division of the pool of matrimonial assets in long single-income marriages, there was no presumption of equal division of matrimonial assets under the *TNL* approach. The court's end goal is to reach a just and equitable outcome based on the facts of a case. Taking into account the length of the marriage in this case, the size of the matrimonial asset pool (about $7.8m) and the parties' respective financial and non-financial contributions (the wife had also made significant indirect contributions, in addition to being the main breadwinner), the Family Division ordered a matrimonial asset division ratio of 60:40 in favour of the wife.

(5) DBA v DBB*: long marriage, assets largely contributed by one party who also made significant indirect contributions (but not an unusually large pool of assets)*

132 In *DBA v DBB*,[106] the wife was the primary homemaker for most of the 31-year-long marriage, though the husband had contributed significantly by caring for the family, doing household chores as well as being the main breadwinner. There were three children to the marriage. The pool of matrimonial assets was valued at over $7m. The Appellate Division held that it was just and equitable to divide the assets in the ratio of 60:40 in favour of the husband. This would not undervalue the wife's homemaking contributions, while acknowledging the husband's

105 [2024] SGHCF 24.
106 [2024] 1 SLR 459.

considerable financial contributions as well as his significant non-financial contributions at home.

C. Moderate length marriage

133 There would be even higher matrimonial asset division ratios for moderate length marriages in favour of the party who had contributed more for direct financial contributions as well as indirect contributions, especially if there is a large pool of assets. This can be seen from the following two cases.

(1) VIG v VIH*: moderate length marriage, large pool of assets mostly earned by one spouse*

134 In *VIG v VIH*,[107] the Family Division divided the assets 70:30 in favour of the husband. This took into account the fact that the wife was the main caregiver of the two children, but also the moderate length of the marriage (12 years), that the husband was involved in the children's lives, the large volume of assets (about $36m) and the fact that most of it was earned by the husband.

(2) CLT v CLS*: moderate length marriage, large pool of assets mostly earned by one spouse*

135 In *CLT v CLS*,[108] the total matrimonial pool in this case amounted to about $53.5m. The court noted that the marriage in *TNL* was a long one of 35 years. In such long marriages, the trends of division leaned towards an equal division of matrimonial assets. However, for moderately lengthy marriages of about 15–18 years, the homemaker wife should get about 35%–40% of the matrimonial assets only. Another factor to consider is the exceptionally massive pool of assets, all earned by the breadwinning spouse. The homemaker spouse would get less in such a case.

136 In this case, the court held that the present single-income marriage (17 years long, with one child of the marriage, and one stepchild who was the husband's child from a previous marriage who lived with the family for quite a number of years) was not a long one, unlike in *TNL*. The court therefore decided on a 70:30 matrimonial asset division ratio in favour of the husband. The court took into account the length of the marriage, the exceptionally large pool of matrimonial assets, and the different roles played by the parties giving rise to various contributions. The court also took into account the gifts made by the husband to the wife.

107 [2021] 3 SLR 1145.
108 [2021] SGHCF 29.

(3) CLS v CLT

137 The matter went on appeal and in *CLS v CLT*,[109] the 70:30 matrimonial asset division ratio was upheld, though the appeal was allowed on the issue of certain shares not being part of the matrimonial pool. The Court of Appeal said that the marriage was moderately lengthy, and the asset pool, while larger than that in *VIG*, was not "more" exceptionally large. Hence it did not agree with the husband's submission that the matrimonial asset division ratio should be 80:20 in his favour, on the basis that the pool of matrimonial assets for this case was larger than that in *VIG v VIH*.

(4) WTS v WTR*: moderate length marriage, less indirect contributions by wife*

138 In *WTS v WTR*,[110] the parties were married for about 15 years and lived together for nearly 12 years, before the husband left the matrimonial home together with the child of the marriage. The child was about 12 years old at the time of hearing of the appeal. The Family Division did not disturb the lower court's 79:21 split of the matrimonial asset pool[111] in the husband's favour. This was an 11–12 year-long marriage where the wife had the help of the husband's parents in caring for the child, and also did not fully take care of the child for years, because of postnatal depression and phone addiction. Hence, her contributions to the household were not that significant.

D. Summary

139 It appears from the above cases that the relevant factors affecting the ratio of division are as follows:

(a) The length of the marriage: long marriages (26–30 years long) would tend towards equality of division; moderate length marriages (15–18 years long) – the homemaker spouse would get about 35%–40% of the matrimonial asset pool; shorter marriages (10–15 years long) – the homemaker spouse would get about 25%–35% of the matrimonial asset pool.

109 [2022] 2 SLR 1043.
110 [2024] SGHCF 33.
111 It is not stated in the judgment what the size of the matrimonial asset pool was, but from the type of assets discussed in the judgment (such as a Housing and Development Board flat, Central Provident Fund monies, jewellery, bank account monies, *etc*), it is apparent that it was not an exceptionally large pool of matrimonial assets.

(b) Equality of division is far from a hard and fast rule even for long marriages: if a spouse has made more direct and indirect contributions, and/or there is a large matrimonial asset pool largely earned by that spouse, then he or she is likely to be awarded approximately 55%–60% of the matrimonial asset pool, even if it has been a long marriage.

(c) For moderate length and shorter marriages, the factors on greater direct and indirect contributions and there being a large matrimonial asset pool largely earned by one spouse have even more force, with the spouse who has contributed more in this regard likely to get up to 70% of the matrimonial asset pool (or even more).

(d) It seems that a matrimonial asset pool would have to be about $20m and above to count as "exceptionally large". A spouse would also have to put in exceptional effort and skill to acquire the assets.

VIII. Conclusion

140 It is submitted that the legislation and the cases reviewed above illustrate the "no windfalls" and "rewarding effort" principles quite clearly. These are tempered by the "connection to the family" principle, but the overwhelming focus in all the cases is still on how much effort a party put in to adding value to the marriage, and the outcome of those efforts.

141 There are other philosophies which could guide the division of matrimonial assets. One key contender is a presumption of equality of division. This is on the basis that marriage is an equal co-operative partnership of different efforts for mutual benefit – hence, whatever was acquired during the marriage by the partners should generally be equally divided between them.[112] This would be holding spouses to what they signed up for, on the day that they promised they would be together until death parted them. Indeed, the predecessor to the current s 112 of the WC, which was s 106, provided that the court should incline towards equality of division for assets acquired by the parties' joint efforts. However, the reference towards equality of division was removed by amendments to

112 See this view propounded in Leong Wai Kum, "The Just and Equitable Division of Gains Between Equal Former Partners in Marriage" [2000] Sing JLS 208 at 239, where it is stated: "When the marriage unfortunately ends in divorce, a just and equitable division of the gains should generally be an equal division."

the WC in 1996, and never restored. In the parliamentary debates on this matter, the then-Minister for Community Development said:[113]

> … the law must provide for all cases, i.e. marriages of long as well as of short duration, and marriages under unusual sets of circumstances. For example, where a marriage is of short duration with no children, the law must not put judges under constraint to incline towards equality *when what is equal may not be just* … [emphasis added]

142 What is equal may not be just if one's guiding principle is that of rewarding effort. If one's guiding principle is that of holding someone to what they promised, then what is equal may well be just. In this author's view, the legislation and case law both indicate that what matters is not what you *said* you would do at the start of the marriage – it is what you actually *did* during the marriage, and the result of those actions.

113 Singapore Parl Debates; Vol 66; Col 527; [27 August 1996] (Mr Abdullah Tarmugi, Minister for Community Development).

ANNEX

What are matrimonial assets? (s 112(10) WC)