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WHEN A HOUSE IS NOT THE (MATRIMONIAL) HOME

The Division of Multigenerational Matrimonial Homes in Singapore

The ways in which families organise their lives are neither uniform nor universal. The recent decisions of *TQU v TQT* [2020] SGCA 8 and *VOD v VOC* [2022] SGHC(A) 6 have demonstrated the difficulty in understanding the place of a multigenerational matrimonial home – a single property that is a matrimonial home to two different family nuclei. In this article, using Singapore as a case study, the author argues that a single property can be the matrimonial home for two different families and that a party's part-interest in the multigenerational matrimonial home should be included in the pool of matrimonial assets for division. The author further advances a novel argument that the classification methodology can be applied by the courts to take into account the ownership and residence of the other family in the multigenerational matrimonial home as a "clear reason to make a different calculation" for the multigenerational matrimonial home *vis-à-vis* the other matrimonial assets, and may be applied alongside the use of unequal weightages being ascribed to direct and indirect contributions.

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I. Introduction

1 On divorce, quite apart from contentious issues in relation to children, the parties have to deal with the thorny issue of the division of matrimonial assets ("division"). The law has had to grapple with how matrimonial assets – whether acquired before or during the marriage –

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are to be divided when the marriage ends. Property law has proved to be unsatisfactory because the purely homemaker spouse would not be given a fair share from division on divorce; the purely homemaker spouse would unlikely have the ability to acquire those assets in the first place. Family law provisions in relation to property division were thus promulgated under the Women's Charter[2] to take the place of property law in this regard.

2 On its own, division is difficult because of the task of determining what a fair share will be for each party walking out of the marriage. Different jurisdictions have had to grapple with selecting from various theoretical bases that should be applied for division, whether it is based on the needs of the parties (and sometimes, the child(ren)), entitlement based on the parties' contributions or efforts to the marriage (hereinafter referred to as "contribution"), entitlement based on the relationship and/or compensation.[3] The adoption of one or a combination of these different theories by various jurisdictions has resulted in division outcomes deviating significantly.[4] However, taking a step back, it is not just the determination of the *outcome* of division that is difficult,[5] there remains the preliminary issue of what properties should be divided. Previously, the inclusion of the matrimonial home was uncontentious.[6] However, in recent years, this once-uncontentious asset has become the centre of dispute in cases involving multigenerational homes. Unfortunately, multigenerational matrimonial homes present a new situation that is contrary to the Court of Appeal's past inference that the

2 In this article, all references to the "Women's Charter" will be taken to refer to the Women's Charter 1961 (2020 Rev Ed).

3 Joanna Miles, "Financial Provision and Property Division on Relationship Breakdown: A Theoretical Analysis of the New Zealand Legislation" (2004) 21 NZULR 268 at 272–290.

4 Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 3.

5 For critiques of the current division regime in Singapore, see Leon Vincent Chan, "The Unfounded Fears Towards Equal Division of Matrimonial Assets in Singapore" (2018) 30 SAcLJ 797; Leon Vincent Chan, *The Beginning of the End of the Broad-brush Approach – A Case Comment of* UQP v UQQ *[2019] SGHCF 7* (Singapore Law Watch, Issue 1, April 2019); Leong Wai Kum, "The Just and Equitable Division of Gains between Equal Former Partners in Marriage" [2000] SingJLS 208; Leong Wai Kum, "The Laws in Singapore and England Affecting Spouses' Property on Divorce" [2001] SingJLS 19; and Teo Jia En, "Reforming Singapore's Law on Division of Matrimonial Assets' (2021) 2 *Singapore Law Journal (Lexicon)* 53. See also *TNL v TNK* [2017] 1 SLR 609.

6 Leong Wai Kum, *Elements of Family Law* (LexisNexis, 3rd Ed, 2018) ch 16, at paras 16.078 and 16.082.

lack of a definition for a "matrimonial home" in the Women's Charter meant that its meaning was "clear".[7]

3 It is against this backdrop that this article seeks to unpack the definition of the matrimonial home under s 112(10) of the Women's Charter to understand what can constitute a matrimonial home, and consequently consider when the matrimonial home should be excluded from division. This article first considers the statutory provisions that define a "matrimonial asset" in the Women's Charter and more specifically, how matrimonial homes are currently identified in Part II, before analysing the current issues regarding division for matrimonial homes from recent cases that have excluded the matrimonial home from division in Part III. Finally, the author concludes in Part IV.

II. The determination of the pool of matrimonial assets in Singapore

4 Before considering how the pool of matrimonial assets is determined, it is necessary to first have a basic understanding of how assets are divided in Singapore under s 112(1) of the Women's Charter. This provision directs the courts "to order the division between the parties of any matrimonial asset or the sale of any such asset and the division between the parties of the proceeds of the sale of any such asset in such proportions as the court thinks just and equitable". Although the Court of Appeal has established the structured broad-brush approach in *ANJ v ANK* (the "Structured Approach") for division in all cases,[8] subsequently, in *TNL v TNK*,[9] the same court held that the Structured Approach will not be applied to single-income marriages because the Structured Approach unduly favours the sole breadwinner in these marriages. Consequentially, there are now two approaches to division in Singapore, depending on whether the marriage is single or dual-income.

5 Under the Structured Approach, the court first delineates the pool of matrimonial assets, and makes clear the date(s) used for the assessment of the parties' properties.[10] Most cases would then apply the global assessment methodology – the division of all matrimonial assets as a single pool. In a separate empirical study, the author and Richard Xu found that the courts have only applied the other methodology –

7 *Wan Lai Cheng v Quek Seow Kee* [2012] 4 SLR 405 at [49].
8 *ANJ v ANK* [2015] 4 SLR 1043 at [23]–[25].
9 *TNL v TNK* [2017] 1 SLR 609 at [41]– [46]; *TOF v TOE* [2021] 2 SLR 976 at [63(a)] and [138].
10 *TEG v TEH* [2015] SGHCF 8 at [16].

the classification methodology – in limited situations.[11] Under the classification methodology, matrimonial assets are separated into different classes and then divided differently between the classes.[12] Under both methodologies, the courts will first ascribe a ratio representing each party's direct financial contributions towards the acquisition of matrimonial assets relative to the other's contributions. Similarly, a separate ratio representing each party's indirect contributions to the marriage (including non-financial and indirect financial contributions to the well-being of the family) will be ascribed. The distinction between the global assessment methodology and the classification methodology is that the latter would have a separate ratio ascribed for each party's direct financial contributions for *each* class of matrimonial assets. Notwithstanding this difference, only one ratio representing each party's indirect contributions will be applied to all classes of matrimonial assets.

6 Although there are two large components within the ratio for indirect contributions, the Court of Appeal in *TNL v TNK* has held that they should not be further split into separate, smaller ratios of non-financial contributions (such as homemaking or childcaring efforts) and indirect financial contributions (such as the payment of the child(ren)'s extracurricular activities or medical expenses).[13] Next, an average of the two ratios for direct and indirect contributions will be obtained to determine each party's average percentage contributions to the marriage relative to the other. This will be the preliminary proportion that each party is to receive from division. Finally, where necessary in some cases, the courts may make further adjustments to this average percentage contribution or to the weightage of the direct and indirect ratios to take into account other relevant factors, including adverse

11 Between the time when the Structured Approach was first established in *ANJ v ANK* on 7 July 2015 and 31 December 2020, the classification methodology was only applied in 20 of all 265 reported cases from that time period. See Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 7.

12 In *TQU v TQT* [2020] SGCA 8, the Court of Appeal held that the classification methodology may be adopted by the courts where "an adverse inference is drawn against a party in relation to one class of asset, or where there is a clear reason to make a different calculation … in relation to one class of assets". See *TQU v TQT* [2020] SGCA 8 at [100]; *TND v TNC* [2017] SGCA 34 at [12]; *TNC v TND* [2016] 3 SLR 1172 at [39]–[44]; *NK v NL* [2007] 3 SLR(R) 743 at [31]–[33]; *AYQ v AYR* [2013] 1 SLR 476 at [16]–[24]; and *BNS v BNT* [2017] 4 SLR 213 at [32].

13 *TNL v TNK* [2017] 1 SLR 609 at [47].

inferences and those found under s 112(2) of the Women's Charter[14] to arrive at a "just and equitable" division:[15]

> (2) It is the duty of the court in deciding whether to exercise its powers under subsection (1) and, if so, in what manner, to have regard to all the circumstances of the case, including the following matters:
>
> (*a*) the extent of the contributions made by each party in money, property or work towards acquiring, improving or maintaining the matrimonial assets;
>
> (*b*) any debt owing or obligation incurred or undertaken by either party for their joint benefit or for the benefit of any child of the marriage;
>
> (*c*) the needs of the children (if any) of the marriage;
>
> (*d*) the extent of the contributions made by each party to the welfare of the family, including looking after the home or caring for the family or any aged or infirm relative or dependant of either party;
>
> (*e*) any agreement between the parties with respect to the ownership and division of the matrimonial assets made in contemplation of divorce;
>
> (*f*) any period of rent-free occupation or other benefit enjoyed by one party in the matrimonial home to the exclusion of the other party;
>
> (*g*) the giving of assistance or support by one party to the other party (whether or not of a material kind), including the giving of assistance or support which aids the other party in the carrying on of his or her occupation or business; and
>
> (*h*) the matters referred to in section 114(1) so far as they are relevant.

14 *ANJ v ANK* [2015] 4 SLR 1043 at [22].

15 Using *ANJ v ANK* as an illustration, the ratio of the husband's direct contributions as against the wife's was 60:40, while the ratio of the husband's indirect contributions as against the wife's was 40:60. Using an equal weightage for both direct and indirect contributions, this resulted in the average percentage contributions for the final division outcome between the husband and wife to be 50:50:

	Husband	**Wife**
Direct contributions	60	40
Indirect contributions (both financial and non-financial)	40	60
Average percentage contributions	50	50

See *ANJ v ANK* [2015] 4 SLR 1043 at [31]–[37]. See also Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 20–23.

7 On the other hand, division for single-income marriages must be considered with respect to the duration of the marriages. In an extensive empirical study of 265 cases since *ANJ v ANK* up to 31 December 2020, the author and Richard Xu found that long marriages are those that have lasted for at least 21 years, while moderate-length marriages are those that have lasted between 11 and less than 21 years, and short marriages are those that have lasted for less than 11 years.[16] Division for long single-income marriages is relatively simple: the courts would examine and follow precedents which have equalised division, unless there were exceptional facts in the case that militate against equal division.[17] In relation to single-income marriages of other durations (*ie*, short and moderate-length marriages), a separate test has not been explicitly laid down by the courts. Instead, the courts appear to have employed a modified approach from *TNL v TNK* where they consider precedents with marriages of similar lengths.[18]

8 With that understanding of division as the backdrop, the author will analyse how the pool of matrimonial assets is determined in the first place by considering how matrimonial assets are identified by the courts. This is statutorily provided for in s 112(10) of the Women's Charter:

> (10) 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 the other party or by both parties to the marriage; and

16 For justifications on this, see Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 9–11.

17 *TNL v TNK* [2017] 1 SLR 609 at [41]–[46]; *TOF v TOE* [2021] 2 SLR 976 at [63(a)] and [138].

18 See for *eg*, *BOR v BOS* [2018] SGCA 78 at [110]–[114]; *CLS v CLT* [2022] 2 SLR 1043 at [73]–[77]; *CLT v CLS* [2021] SGHCF 29 at [70]–[82]; *VJV v VJW* [2022] SGHCF 18 at [7]; *VIG v VIH* [2021] 3 SLR 1145 at [61]–[75]; and *UVF v UVG* [2019] SGHCF 21 at [46]–[57]. See also Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 8–9.

> (*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.

This convoluted provision attempts to first state what *is* a matrimonial asset before stating what *is not*. Essentially, this provision provides for three categories of matrimonial assets that are subject to division: (a) assets (that are not gifts or inheritances) acquired by the efforts of one or both parties during the marriage are matrimonial assets available for division;[19] (b) pre-marital assets (that are not gifts or inheritances) that have been "ordinarily used or enjoyed" by both parties or at least one child from the marriage under s 112(10)(*a*)(i) of the Women's Charter; and (c) pre-marital assets (that are not gifts or inheritances) that have been "substantially improved during the marriage" by the other party or both parties to the marriage under s 112(10)(*a*)(ii) of the Women's Charter. The High Court in *Chen Siew Hwee v Low Kee Guan* ("*Chen Siew Hwee*") has held that this definition under s 112(10)(*a*)(i) of the Women's Charter for ordinary use or enjoyment necessarily includes the matrimonial home.[20]

9 However, there are two exceptions to the aforementioned categories of matrimonial assets: (a) the matrimonial home; and (b) gifts or inheritances (whether obtained before or during the marriage). As the "cradle of the family" during the subsistence of the marriage, there is greater imperative to include this asset into the pool since the matrimonial home was where the family had spent the "most substantial" time living there.[21] It should therefore be of no surprise that the matrimonial home

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19 Leong Wai Kum has argued that "quintessential matrimonial assets" referred to:

> … property that [was] so well and closely connected with the spouses' exertion of personal efforts during the subsistence of marriage that no one will question its inclusion as matrimonial asset. … [a] quintessential matrimonial asset is any kind of property either or both spouses beneficially own that possesses two connections with the marital partnership, *viz*: [1] it was acquired through the exertion of personal effort of one or both spouses; and [2] it was acquired during the subsistence of their marriage.

See Leong Wai Kum, *Elements of Family Law* (LexisNexis, 3rd Ed, 2018) ch 16, at para 16.041 and Leong Wai Kum, *Halsbury's Laws of Singapore* vol 11 (LexisNexis, 2006 Reissue) at para 13.806.

This term was subsequently adopted by the High Court in *TNC v TND* [2016] 3 SLR 1172 at [40]. Later, it was endorsed by the Court of Appeal in *TND v TNC* [2017] SGCA 34 at [35] and *USB v USA* [2020] 2 SLR 588 at [19(a)].

20 *Chen Siew Hwee Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [33] and [46].

21 *TXW v TXX* [2017] 4 SLR 799 at [16].

occupies a special place in the family.[22] The Court of Appeal has also noted in *USB v USA*[23] that once a property has been determined to be the matrimonial home, the property is also a matrimonial asset "by virtue of its status as the matrimonial home".[24] On the other hand, gifts or inheritances (whether acquired before or during the marriage) can only be transformed into matrimonial assets if they were "substantially improved during the marriage" by the other or both parties to the marriage. Accordingly, the ownership of "untransformed" pre-marital assets are subject to the general principles of property law; the Women's Charter does not empower the courts to divide these assets under family law.[25] More recently, the Court of Appeal in *USB v USA* has neatly summarised the above discussion into four categories: (i) quintessential matrimonial assets; (ii) transformed matrimonial assets; (iii) pre-marital assets; and (iv) gifts and inherited assets.[26] Much ink has since been spilt on the inadequacy and inconsistency of the provision in its current form. However, for the purposes of this article, these will not be dealt with, save to note that these issues identified by the High Court[27] and scholars[28] on s 112(10) of the Women's Charter remain.[29]

10 This therefore begs the question as to how assets are determined to be matrimonial assets in the first place – whether transformed or not. In *TXW v TXX*, the High Court held that "[e]ach case ought to be determined on its own facts".[30] On appeal, this was not dismissed by the apex court.[31] Similarly, in *VOD v VOC*, the Appellate Division of the High Court ("Appellate Division") also held that the court would consider "all the relevant facts and circumstances".[32] Despite this, although the parties' intention will be considered during the identification of matrimonial assets, "[i]ntention alone does not transform an asset that is *prima facie* not a matrimonial asset into a matrimonial asset".[33] With this understanding, the author will now consider recent issues surrounding the identification of matrimonial homes.

22 See Leong Wai Kum, *Elements of Family Law* (LexisNexis, 3rd Ed, 2018) ch 16, at para 16.049.
23 *USB v USA* [2020] 2 SLR 588 at [62].
24 See also *Chen Siew Hwee Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [33].
25 *USB v USA* [2020] 2 SLR 588 at [18].
26 *USB v USA* [2020] 2 SLR 588 at [19].
27 See *Chen Siew Hwee Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [39]–[53].
28 Leong Wai Kum, *Elements of Family Law* (LexisNexis, 3rd Ed, 2018) ch 16, at paras 16.016–16.040.
29 This provision has not been amended since its last amendment in 1996.
30 *TXW v TXX* [2017] 4 SLR 799 at [16].
31 No judgment was issued by the Court of Appeal.
32 *VOD v VOC* [2022] SGHC(A) 6 at [36].
33 *CLB v CLC* [2021] SGHCF 17 at [41].

III. Difficulty in ascertaining what constitutes a matrimonial home

11 Previously, as Leong Wai Kum noted, the identification of the matrimonial home was not controversial.[34] In most cases, the matrimonial home was easily identified: the property was acquired by one or both parties' personal efforts during the marriage which the parties had lived in for the most substantial time, and/or the parties would have agreed on which property constituted the matrimonial home.[35] This is straightforward and uncontroversial.[36] In some other cases, the courts have had to determine which of two (or more) properties was the matrimonial home during the subsistence of the marriage.[37] It was only recently that more creative arguments have been made before the courts to argue for the exclusion of properties from division as a result of there being more than one family living in the property. In these cases, these properties have housed both the married couple and one of the spouse's immediate family (whether parents and/or siblings). For the purposes of this article, the author terms such properties as "multigenerational matrimonial homes". In this Part, the author will first highlight the issues that have surfaced with respect to the division of matrimonial homes, before analysing the identified issues in greater depth.

A. The exclusion of multigenerational homes

12 In this section, two recent decisions will first be considered to highlight the issues raised in them: *TQU v TQT*[38] and *VOD v VOC*.[39] The factual matrices of these cases will not be examined extensively since this

34 Leong Wai Kum, *Elements of Family Law* (LexisNexis, 3rd Ed, 2018) ch 16, at paras 16.078 and 16.082.

35 For the avoidance of any doubt, the author is not suggesting that matrimonial homes may only be included for division where it can be shown that it was a gift or inheritance that was used as a matrimonial home. Where there are multiple properties that have been classified as matrimonial assets, it is a mere determination of *which* property was the parties' matrimonial home (if any). Meanwhile, where the property was acquired before the marriage, the property can be classified as the parties' matrimonial home if it can be shown that there was "substantial improvement" or "ordinary use" (*ie*, one of the two transformative arguments under s 112(10)(*a*) of the Women's Charter). See for *eg*, *USB v USA* [2020] 2 SLR 588 at [9] and *VPH v VPI* [2021] SGHCF 22 at [24].

36 As such, the author will not belabour these two types of matrimonial homes – properties acquired during the subsistence of the marriage or agreed by the parties to be the matrimonial home.

37 This includes the consideration of whether a matrimonial home can lose its character after the family has moved out. See for *eg*, *TXW v TXX* [2017] 4 SLR 799.

38 [2020] SGCA 8.

39 [2022] SGHC(A) 6.

article is not intended to be a case commentary. Instead, only pertinent facts will be discussed to illustrate the issues regarding the division of matrimonial homes.

(1) TQU v TQT*: Temporary residence in the disputed property*

13 In *TQU v TQT*, the only relevant issue for the purposes of this article was the inclusion of a property located in Pender Court ("Pender Court Property") as a matrimonial home for division; this was owned by both parties[40] but purchased using money gifted by the husband's father to the husband before the marriage.[41] The parties had lived in the Pender Court Property temporarily for slightly over one year[42] while waiting for their other property in Bukit Batok ("Bukit Batok Property") to be ready. This was supported by the fact that the husband's family had lived in the Pender Court Property even prior to the wife moving in to join the husband and his family in that property. The Court of Appeal held that the wife had not discharged her burden of proof that the Pender Court Property was a matrimonial home or that the property had been improved by her. Accordingly, the Court of Appeal disagreed with the High Court below that the Pender Court Property was a matrimonial home available for division.

14 Notably, however, the Court of Appeal found that there were two matrimonial homes during this marriage. Between 1991 and 1995, the Bukit Batok Property was the parties' matrimonial home, until they moved into another property at Eng Kong Place ("Eng Kong Property") sometime later in 1995.[43] The Eng Kong Property remained the parties' matrimonial home until 2007 when the wife moved out permanently; the husband and children continued to live there until 2010.

(2) VOD v VOC*: Prior residence and control by the husband's immediate family*

15 Subsequently, in *VOD v VOC*, the Appellate Division dealt with a similar situation involving a single property being used by the parties to

40 *TQT v TQU* [2020] SGCA 8 at [9].
41 *TQU v TQT* [2020] SGCA 8 at [50]–[51].
42 It should be noted that parties were in dispute about the duration; the Court of Appeal found that both parties did not provide satisfactory evidence in support of the parties' duration of stay in the Pender Court Property. Nonetheless, the Court of Appeal held that even if the parties did live in the Pender Court Property, it would be a "temporary measure while awaiting their home in the [other property]". The keys for this other property was collected approximately one year and a month after the parties were married. See *TQU v TQT* [2020] SGCA 8 at [50]–[54].
43 *TQU v TQT* [2020] SGCA 8 at [58] and [78].

the marriage and the husband's family (*ie*, the husband's father, mother and brother). In this case, the property in dispute ("Bukit Timah Property") was purchased and continued to be financed solely by the husband's father in January 2004, despite the property being registered in the names of the husband, the husband's brother and the husband's mother, as joint tenants. It was agreed by all parties (including the husband's family) that the husband owned a one-third interest in the Bukit Timah Property.

16 Nonetheless, although the husband's parents had intentionally catered two rooms and paid for the parties' renovations in the Bukit Timah Property,[44] the Appellate Division held that the husband's one-third interest in the property was not the parties' matrimonial home for the following reasons: first, the parties had only lived in the Bukit Timah Property for 33 months; second, the husband's parents were the "master and mistress of the household";[45] and third, relying on *TQU v TQT*, the presence of "other people … is a relevant circumstance".[46] It is worth noting that the Appellate Division had also found that the husband's family had lived in the Bukit Timah Property since 2004.[47] Further, the Appellate Division added that "legal interest coupled with residence will not necessarily mean that the property in question constitutes a matrimonial home" before giving the following example:[48]

> For example, if the parties stay at a property rented from a third party or which belongs entirely to another member of the family, that property will not be part of the matrimonial assets available for distribution even though, from a layperson's point of view, that property may be considered as their matrimonial home.

17 In a number of other cases, the fact that one spouse's family stayed with the married couple did not bar the courts from dividing the property after determining that the property was a matrimonial asset.[49]

B. Multigenerational homes can be matrimonial homes to two families

18 The two decisions have serious ramifications from the exclusion of the part interest in the (multigenerational) matrimonial home from

44 *VOD v VOC* [2022] SGHC(A) 6 at [38].
45 *VOD v VOC* [2022] SGHC(A) 6 at [37]–[38].
46 *VOD v VOC* [2022] SGHC(A) 6 at [39]–[40].
47 *VOD v VOC* [2022] SGHC(A) 6 at [37].
48 *VOD v VOC* [2022] SGHC(A) 6 at [42].
49 There are currently no other reported decisions involving one party's family staying at the parties' matrimonial home that was gifted to the parties. This makes the discussion in this article novel. See for *eg*, *UZM v UZN* [2019] SGHCF 26 and *UTJ v UTK* [2019] SGHCF 6.

division, whether or not the disputed property was a gift, inheritance, or a pre-marital asset. The exclusion of the multigenerational matrimonial home would suggest that the family had no "cradle of the family" during the marriage. In both cases, they involved multigenerational homes where one spouse's family were residing in the same property as the married couple. In this section, the author will first argue that there is nothing in the Women's Charter precluding a matrimonial asset from being the matrimonial home to two families; second, multigenerational matrimonial homes should be divided like other matrimonial assets that are co-owned with third parties (that are not parties to the marriage); third, the implications from dividing multigenerational matrimonial homes are limited; and fourth, there is good justification for the use of the classification methodology that can also act as a mitigating tool. It should be noted that although both decisions involved gifts, the author's arguments can apply equally to situations where the disputed co-owned multigenerational matrimonial home was acquired before or during the subsistence of the marriage.[50] This is because the determination of the nature of the asset (*ie*, whether the disputed property is a multigenerational matrimonial home) follows *after* a property has been determined to be a matrimonial asset.

(1) A property may be the matrimonial asset of more than one family

19 Reading s 112(10) of the Women's Charter (reproduced at para 8 above) literally, this provision not only does not define what a matrimonial home is, it also does not preclude a single property from being the matrimonial home for two distinct families or marriages. Multigenerational matrimonial homes in this regard are usually large enough to accommodate more than one family. There are many reasons for a young family to stay with one party's parents, especially in Singapore where it is common for grandparents to assist in the childcaring of their grandchildren. Another family treating the same multigenerational matrimonial home as their matrimonial home does not detract or diminish the parties' treatment of the same property as their matrimonial home too. Consequently, two households may treat the same property as both their matrimonial homes. It would therefore be a false dichotomy to compare the duration of stay[51] in the multigenerational matrimonial

50 *Ie*, matrimonial assets under ss 112(10)(*a*) and 112(10)(*b*) of the Women's Charter.

51 In *Ryan Neil John v Berger Rosaline* [2000] 3 SLR(R) 647, the High Court (at [59]–[60]) affirmed the lower court's use of duration of stay in a property as a good indicator of "ordinary use or enjoyment". In this regard, *TXW v TXX* can be seen as building on *Ryan Neil John v Berger Rosaline* when the High Court in *TXW v TXX* held at [16] and [18] that the property where the parties spent the "most substantial years of their married lives" even though, technically, the parties were living in another property as their matrimonial home during the last years of their marriage.

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home between one spouse's family (or parents) and the parties to the marriage in question to determine the status of the matrimonial home;[52] the property *can* be the matrimonial home to two families. In *VOD v VOC*, even though the husband's family had lived in the Bukit Timah Property for approximately 11 years as their family or matrimonial home before the wife moved in, it does not necessarily follow that the same property cannot be the parties' matrimonial home since it was their *only* home during the majority of their short marriage.

20 It is worth noting that in finding that the Bukit Timah Property was *not* the parties' matrimonial home, the Appellate Division in *VOD v VOC* appeared to have relied heavily on the fact that the husband's parents were "the master and mistress of the household".[53] This requirement of being the "master and mistress of the household" appears to be a new factor established by the Appellate Division in determining whether the Bukit Timah Property was the matrimonial home to the parties or the husband's parents; effectively, a new exception appears to have been carved out in this decision. This additional requirement is not provided for in the statute or considered in any other cases. Although the Appellate Division had accepted that a part interest property can constitute a matrimonial home for division,[54] the court appears to have carved out this new exception by holding that the husband's part interest in a property is not a matrimonial home where the property is the matrimonial home of another or subsequent family.

21 However, physically residing in the property is insufficient for the property to be included in the pool of matrimonial assets for division. In determining whether a property was a matrimonial home, it is important to consider the parties' and the husband's parents' intentions and conduct at the time when the parties first moved into the Bukit Timah Property. In *VOD v VOC*, the Bukit Timah Property in *VOD v VOC* was registered as a joint tenancy in the names of the husband, the husband's brother and the husband's mother; there were no "additional steps to protect

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Although there are no decisions that have specifically decided on this issue, negative examples of unsubstantial durations for the purposes of determining "ordinary use or enjoyment" from s 112(10)(*a*)(i) of the Women's Charter are useful. In *BJS v BJT* [2013] 4 SLR 41, the High Court held that "occasional or casual" use of the property would be insufficient. Separately, the High Court in *Ryan Neil John v Berger Rosaline* held at [60] that no more than 21 days out of a 14-year marriage was insufficient, while the High Court in *JAF v JAE* [2016] 3 SLR 717 held at [15] that two occasions of stay at the property during the marriage would also be insufficient.

See also *Ryan Neil John v Berger Rosaline* [2000] 3 SLR(R) 647 at [59]–[60] and *TXW v TXX* [2017] 4 SLR 799 at [16] and [18].

52 See *VOD v VOC* [2022] SGHC(A) 6 at [37].

53 *VOD v VOC* [2022] SGHC(A) 6 at [38] and [41].

54 *VOD v VOC* [2022] SGHC(A) 6 at [30].

the sum from the wife, through a trust or otherwise" even after the husband married the wife, indicating the husband's parents intention for the husband to own a share and benefit from one-third share of the property.[55] In the absence of any evidence of any act, conduct, and/or intention to the contrary (*ie*, to prevent the wife from having a share in the Bukit Timah Property), the husband's one-third share in the Bukit Timah Property should therefore be the parties' matrimonial home and be included for division.

22 Further, the parties had lived in the disputed Bukit Timah Property for most of their short marriage (33 months) as their matrimonial home before the wife filed for divorce approximately eight months after moving out.[56] In fact, the parties did not reside in any other property during the subsistence of their short marriage nor was there evidence that they intended to move out of the Bukit Timah Property at some point in the future. It is not a stretch to conclude that the parties had treated (or at least intended to treat) the Bukit Timah Property as their matrimonial home since renovations were done for the parties' matrimonial bedroom and son's nursery and tailored to the wife's preferences.[57] In a similar vein, on the part of the husband's parents, the tailoring of the two rooms to the wife's specifications coupled with their gifting of a share in the property to the husband also demonstrated the husband's parents' intention for the parties to live and remain in the Bukit Timah Property as their matrimonial home comfortably. Therefore, the author submits that the husband's father's decision to pay the mortgage and running expenses of the property does not detract from this intention because these expenses (including the costs of renovations) could be seen as the husband's father's desire and/or intention for the parties to live in the Bukit Timah Property as their matrimonial home. Unless there is evidence to the contrary, the author's deduction from the available facts is reasonable.

23 Lastly, at this juncture, it is worth addressing the comparison made by the Appellate Division in *VOD v VOC* of the Bukit Timah Property to a rented property. The use of a rental property as an example to justify how a "layperson's point of view" of a matrimonial home may be different from that in law is fundamentally incorrect. Respectfully, this is a strawman argument. A rental property can never be subject to division because it was never acquired by one or both parties to the marriage.

55 *BON v BOQ* [2018] 2 SLR 1370 at [9].

56 It should be noted that the total length of the marriage was approximately 49 months before it was terminated by the interim judgment of divorce.

57 The Appellate Division found that the wife's preferences for the two rooms were taken on board since her correspondence with the contractors was confined to these respects. See *VOD v VOC* [2022] SGHC(A) 6 at [38].

Therefore, this is a poor example to show how "mere residence alone is generally not enough".[58]

24 For completeness, following the recent Court of Appeal decision of *CLB v CLC*, the husband's share in the Bukit Timah Property may still be included for division even if the Appellate Division had found that it was not a matrimonial asset or matrimonial home. In *CLB v CLC*, the Court of Appeal held that it was not inconsistent with s 112(10) of the Women's Charter for the courts to consider the intentions of the donee spouse with respect to gifts or inheritances.[59] Following property law, the donee spouse may deal with the non-matrimonial asset as they would please. Applying these principles from *CLB v CLC* to *VOD v VOC*, an argument could be made that the husband (as the donee spouse) had intended for his share in the Bukit Timah Property to be treated as a family asset as between the husband and wife since the wife was invited to live in the Bukit Timah Property, and was allowed to decide how to renovate the parties' bedroom and child's nursery in it. Accordingly, there is no need for the wife or both parties to prove that they had improved the Bukit Timah Property or the parties' matrimonial home under s 112(10) of the Women's Charter since the husband's "intention" (as the donee spouse) is a third way[60] in which gifts or inheritances can be included into the matrimonial pool for division. That said, this argument would be further strengthened if more evidence could be adduced to evince the husband's intention to treat the Bukit Timah Property as the parties' home or net worth.[61]

(2) Consistency in treatment of multigenerational matrimonial homes and other matrimonial assets

25 It is undisputed that part interests in a property can constitute a matrimonial asset for division.[62] This was accepted by the Appellate Division in *VOD v VOC*.[63] Flowing from this trite position, in this section, the author will make three points: first, part interest in properties have been found by various courts to be matrimonial assets and included for division; second, a stronger argument can be made for the inclusion of the part interest in the matrimonial home for division; and

58 *VOD v VOC* [2022] SGHC(A) 6 at [42].
59 *CLC v CLB* [2021] SGCA 10 at [36]–[64]. See also *WFE v WFF* [2022] SGHCF 15.
60 *CLC v CLB* [2021] SGCA 10 at [40].
61 See for *eg*, [2021] SGCA 10 at [88]–[90].
62 See *UZN v UZM* [2021] 1 SLR 426; *TND v TNC* [2017] SGCA 34; *UTJ v UTK* [2019] SGHCF 6 at [19]; *BUE v TZQ* [2018] SGHC 276; *TZQ v TZR* [2019] SGHCF 3; *UNE v UNF* [2018] SGHCF 12; and *Hoong Khai Soon v Cheng Kwee Eng* [1993] 1 SLR(R) 823.
63 *VOD v VOC* [2022] SGHC(A) 6 at [30].

lastly, there are dire consequences for the exclusion of part interests in matrimonial homes.

26 To begin with, it is not uncommon where two (or more) different families own a share in the same property and the property is subsequently divided by the courts. Indeed, there is precedent where the courts have found that one party had a part interest in a property that was the parties' matrimonial home and subject to division. In *UZM v UZN*, the High Court found that the husband's half share in the property – which was co-owned with the husband's father – was the parties' matrimonial home and subject to division.[64] The husband's half share in the matrimonial home was gifted to him by his father. This was undisputed by any party on appeal.[65] The only difference between *UZM v UZN* and *VOD v VOC* was that in *UZM v UZN*, there was no second family living in the same property and treating it as their matrimonial home.

27 In fact, it is not novel for the courts to divide a part interest in a property that is the matrimonial home of a third party. In *UTJ v UTK*,[66] although the property ("Jalan B Property") was the parties' son's matrimonial home, the property was paid for by the husband but held in joint tenancy by the wife and the parties' son. Despite the Jalan B Property being the parties' son's matrimonial home (where he lives with his own family), the High Court rightly included the wife's half share of the property for division. Even though the parties in this case agreed for half the value of the son's matrimonial home to be included in the pool of matrimonial assets for division, *UTJ v UTK* demonstrated that the presence of another family (the parties' son's family) living within the property as their matrimonial home did not preclude the inclusion of this property for division. Separately, the High Court in *Ng Sylvia v Oon Choon Huat Peter* found that the husband's quarter share in a jointly-owned property (with three other siblings) was a matrimonial asset available for division.[67]

28 Even though the situations in the precedents cited above were not exactly the same as in *VOD v VOC*, with each only demonstrating one aspect of a multigenerational matrimonial home (whether co-ownership with a third party or the matrimonial home of another family), it is submitted that taken together, *VOD v VOC* is at odds with these longstanding principles. For consistency, multigenerational matrimonial

64 *UZM v UZN* [2019] SGHCF 26 at [12] and [19].
65 *UZN v UZM* [2021] 1 SLR 426.
66 *UTJ v UTK* [2019] SGHCF 6 at [6] and [19].
67 *Ng Sylvia v Oon Choon Huat Peter* [2002] 1 SLR(R) 246 at [15]–[16]. This was affirmed by the Court of Appeal in *BOI v BOJ* [2019] 2 SLR 114 at [15].

homes should be treated in the same manner; only the value of the party's share in the multigenerational matrimonial should be included for division.

29 Second, as noted above, there is no special exception provided for in the Women's Charter with respect to the matrimonial home to be excluded from division if they were partly owned by one or both parties to the marriage with a third party. If Parliament had intended there to be one, s 112(10) of the Women's Charter would have provided as such accordingly. On the contrary, a stronger argument can be made for the inclusion of the part interests that are matrimonial homes to be included for division. Since at least 2006, the Singapore courts have accepted Leong Wai Kum's characterisation[68] of the matrimonial home as the "cradle of the family".[69] The High Court in *Chen Siew Hwee* spilt much ink to emphasise this significance – the matrimonial home occupies a special place in the family:[70]

> It might be argued that if the gift or inheritance constitutes the matrimonial home, it would be just and fair for that particular asset to constitute part of the pool of matrimonial assets. After all, it has been pertinently pointed out that '[t]he matrimonial home is the cradle of the family' … It is significant that this particular exception has indeed been incorporated both within s 112(10)(*a*)(i) [of the Women's Charter] and (even more explicitly and importantly) within the qualifying words themselves. Indeed, one could argue, on a general level, that notwithstanding the fact that the matrimonial home originated as a gift, the very fact that it was given in order to be utilised as the matrimonial home itself results in the property concerned being transformed into a matrimonial asset. …

30 The High Court in *Chen Siew Hwee* had sought to emphasise that although gifts and/or inheritances should be cautiously considered to "prevent unwarranted windfalls accruing to the other party";[71] however, the matrimonial home is exempted from this *even if* it were a gift or inheritance. The author submits that this exemption from the Women's Charter demonstrates that matrimonial homes occupy a special place as a matrimonial asset; barring stronger arguments to the contrary, matrimonial homes should almost always be included into the pool of matrimonial assets for division.[72] In the case of *VOD v VOC*, the fact that

68 Leong Wai Kum, *Halsbury's Laws of Singapore* vol 11 (LexisNexis, 2006 Reissue) at para 130.788.

69 *Chen Siew Hwee Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [33]; *TXW v TXX* [2017] 4 SLR 799 at [16]–[18]; and *TND v TNC* [2017] SGCA 34 at [34].

70 *Chen Siew Hwee Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [33].

71 *Chen Siew Hwee Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [32]–[48].

72 See also Leong Wai Kum, *Elements of Family Law* (LexisNexis, 3rd Ed, 2018) ch 16, at para 16.081.

the disputed Bukit Timah Property was also the matrimonial home of the husband's parents does not diminish the fact that a portion of this same property was used as the matrimonial home (or rooms) of the parties. As a matter of consistency and principle, the portion of the multigenerational matrimonial home – whether a one-third share in terms according to the joint tenancy or a share depending on the area used by the parties *versus* the rest of the property – should be included as a matrimonial asset for division.

31 On the other hand, the consequences of not including an asset into the pool for division are problematic and dire: first, parties in similar marriages where there is a multigenerational home will unlikely have their matrimonial home – usually one of the largest matrimonial assets of the marriage – added to the pool for division; and second, future parties who reside in a multigenerational home may rely on the holding in *VOD v VOC* to re-organise the family property in order to circumvent the inclusion of similar assets, and prevent them from being included for division on divorce. Accordingly, the spouse whose family does not own and/or live in the matrimonial home is always disadvantaged in these circumstances; they are left with little to nothing on division. In light of the above, the author proposes a framework in the penultimate section of this article for the determination of the matrimonial home to prevent or reduce the circumvention of the inclusion of a multigenerational home for division.

(3) Limited consequences of inclusion of share of multigenerational matrimonial homes

32 On the face of the author's suggestion, it may appear to be unjust or unequitable to the other family (who originally lived in the disputed property) for a portion of their matrimonial home to be included for division in the parties' divorce. However, the family should live with the consequences of their original decision to hold the property jointly with one of the parties to the marriage. In *VOD v VOC*, the husband's family had intentionally registered the Bukit Timah Property in the names of the husband as well as the husband's mother and brother.[73] This should not be discounted. Whatever the reasons behind the arrangement,[74] the husband's family cannot have their cake and eat it. It was clear that the parties intended to start their family in the Bukit Timah Property since the husband's parents paid for and tailored the renovations to the parties'

73 *VOD v VOC* [2022] SGHC(A) 6 at [27].

74 It was alleged in this case that the husband's father was not eligible to own certain types of residential properties in Singapore at the time of purchase. See *VOD v VOC* [2022] SGHC(A) 6 at [27].

preference. These same facts clearly evince the intention of the husband's parents as well, unless proven otherwise. Therefore, looking at the intention of all parties (including the husband, wife and the other party's family) at the time of the marriage and not at the time of the divorce, the failure of the marriage does not detract from everyone's common intention at the time when the parties moved into the multigenerational matrimonial home – the parties were to live in the Bukit Timah Property as their matrimonial home.

33 It is also worth noting that the Court of Appeal has held in *UDA v UDB* that s 112 of the Women's Charter does not permit a third party to appear before the Family Justice Courts to adjudicate on the third party's claim to the alleged matrimonial asset;[75] the Family Justice Courts have no jurisdiction to hear property disputes relating to a third party's claim in any property owned by one or both parties of the marriage. Instead, should the third party be inclined to assert their claim, it may file a claim against one or both parties of the marriage in a separate civil suit.[76] Therefore, *a fortiori*, the *consequences* of the inclusion of the multigenerational matrimonial home on the third party should not be factored into the court's *determination of whether the said property is a matrimonial home* that should be included for division. This issue is distinct from *how* the multigenerational matrimonial home is later to be divided. In other words, this potentially negative impact on the husband's family in *VOD v VOC* who continue to reside in the Bukit Timah Property is a separate, consequential issue that should only be dealt with when the courts consider *how* the disputed property should be divided. As will be discussed below, it is valid to consider *how* the disputed multigenerational matrimonial home should be divided under s 112(2) of the Women's Charter. Regardless, with respect to the practical impact of including a share of the multigenerational matrimonial home for division on the husband's family, the author submits that this will be limited.

34 First, applying the currently applicable Structured Approach with respect to gifts, the recipient of the gift is attributed 100% of the direct contributions to that matrimonial asset.[77] Therefore, the non-recipient of the gift will unlikely receive more than a 50% share of the disputed matrimonial asset. This is supported by a recent watershed study conducted by the author and Richard Xu on the trends in the division of

75 *UDA v UDB* [2018] 1 SLR 1015 at [28]–[33] and [43].
76 *UDA v UDB* [2018] 1 SLR 1015 at [54]–[58].
77 *UWM v UWL* [2021] SGCA 105 at [21]–[22]; *TNL v TNK* [2017] 1 SLR 609 at [55]; *TQU v TQT* [2020] SGCA 8 at [57]; *UTQ v UTR* [2019] SGHCF 13 at [17]; *ARV v ARW* [2015] SGHC 72 at [47]; and *Ang Teng Siong v Lee Su Min* [2000] 1 SLR(R) 908 at [22]–[29].

matrimonial assets in Singapore which found that direct contributions continued to be the key determinant for division in dual-income marriages.[78] In a majority of the cases studied, the party that had more indirect contributions to the marriage would usually be attributed with 60% to 70% of indirect contributions to the marriage. For the spouse with lower direct contributions, he or she had to be attributed with more than 40% of the direct contributions before they would receive a majority share from division.[79] This was also the situation in *VOD v VOC* where the wife was attributed 60% of the indirect contributions to the marriage.[80]

35 Additionally, to make division of the multigenerational matrimonial home more just and equitable, following *ATE v ATD*,[81] the courts may also adjust the weightage given to each type of contribution by increasing the weightage given to direct contributions. It is worth noting that like the marriage in *ATE v ATD*, *VOD v VOC* also involved a short dual-income marriage.[82] The effect of this adjustment to the weightage will further reduce the division outcome for the non-recipient from his or her part-share in the multigenerational matrimonial home. The value of this reduced share in the multigenerational matrimonial home can thereafter be offset against the same party's share in the other matrimonial assets; the multigenerational matrimonial home – the Bukit Timah Property – will unlikely be sold and will therefore not affect the husband's family who are staying in that property.

36 Second, for completeness, even if there is a shortfall (resulting from the husband's share in the other matrimonial assets being insufficient to cover the wife's share of the multigenerational matrimonial home from division), the party whose family owns an interest in the multigenerational matrimonial home and/or the family may buy out the other party's share from division. This is not new. In both *ANJ v ANK* and *Wan Lai Cheng v Quek Seow Kee*, the Court of Appeal gave one spouse the *option* of buying out the other spouse in the matrimonial property.[83]

78 Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 25–30.

79 Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 29.

80 *VOD v VOC* [2022] SGHC(A) 6 at [116].

81 *ATE v ATD* [2016] SGCA 2 at [18]–[22].

82 It would appear from the judgment that this is a dual-income marriage. See *VOD v VOC* [2022] SGHC(A) 6 at [121]–[138].

83 *ANJ v ANK* [2015] 4 SLR 1043 at [49]–[50]; *Wan Lai Cheng v Quek Seow Kee* [2012] 4 SLR 405 at [93]. See also *TIC v TID* [2017] SGHCF 30.

In any case, as discussed above, as a matter of principle, this should not affect the inclusion of the Bukit Timah Home as the matrimonial home of the parties since this is a consequence of the husband's family's decision to include the husband as a joint tenant in the Bukit Timah Property in the first place.

37 Cumulatively, the attribution of 100% of the direct contributions to the recipient of the gift, the increased weightage to the direct contributions under the Structured Approach, and the ability to buy out the other party's share in the matrimonial asset, will reduce or even negate the consequences of the inclusion of the multigenerational matrimonial home.[84]

(4) Classification methodology can take into account the ownership and residence of the other family

38 As noted above, the determination of whether a property is a matrimonial home that should be included in the pool for division is distinct from the determination of a party's share in the matrimonial asset. In this Part, the author argues that the classification methodology can justifiably be used by the courts in determining each party's share in the multigenerational matrimonial home to further mitigate any potential unfairness to the husband's family that may result from the inclusion of a share of the multigenerational matrimonial home for division. This pragmatic tool can be justified based on existing principles and the author's proposed new reasoning – to take into account the ownership and residence of the other family in the multigenerational matrimonial home. Currently, as noted above, in most cases, the courts have been observed to adopt the global assessment methodology in division.[85] However, cases involving multigenerational matrimonial homes may be "a clear reason to make a different calculation … in relation to one class of assets":[86] the fact that the multigenerational matrimonial home is not just the cradle to one, but two families is a strong basis to classify it in a separate class.[87] The author's proposition is justified in so far as it does not contradict existing

84 Nonetheless, the author acknowledges that this reduction of consequences is ultimately dependent on the party's share in the multigenerational home.

85 Leon Vincent Chan & Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore" (2022) 36(1) *International Journal of Law, Policy and the Family* 1 at 7 and 12.

86 *TQU v TQT* [2020] SGCA 8 at [100]; *BNS v BNT* [2017] 4 SLR 213 at [32].

87 For the avoidance of any doubt, issues arising from other co-owned matrimonial assets are outside the scope of this article. Therefore, the author will not be discussing those issues, save to say that possible arguments may be made to justify them being a separate class for division under the classification methodology.

principles, the Structured Approach, or the requirements under s 112(2) of the Women's Charter. This creation of a separate class will ensure that the special nature of the multigenerational home – the property being the cradle to and owned by another household who may still be living in the property – is adequately accounted for (since, as the Appellate Division has held in *VOD v VOC*, they are relevant under s 112(2) of the Women's Charter);[88] the multigenerational matrimonial home should be considered separately from the other matrimonial assets which are not affected by this additional consideration. This, the author submits, is a "clear reason" for the multigenerational matrimonial home *vis-à-vis* the other matrimonial assets to give recognition for its special status.

39 In the subsequent paragraphs, the author will illustrate how the classification methodology may be applied by the courts to achieve a just and equitable outcome in the circumstances for division, *vis-à-vis* the global assessment methodology. By calculating the division outcomes, it takes the argument out of the abstract and concretely shows the different outcomes that may arise from using different tools within the courts' disposal. In this regard, the author will also advance a novel argument and demonstrate how other mitigating factors (such as the unequal weightage as a result of this being a short marriage)[89] can complement the use of the classification methodology in obtaining a just and equitable outcome for all parties, including the husband's family. Figures from *VOD v VOC* with respect to the Appellate Division's valuation of the pool of matrimonial assets available for division (*ie*, the exclusion of the Bukit Timah Property) at $2,443,942.18 being the total value of all other matrimonial assets available for division, and the value of the Bukit Timah Property at $1,744,000.00 are used.[90]

	Husband	**Wife**
Direct contributions (50% weightage)	93.00	7.00
Indirect contributions (50% weightage)	40.00	60.00
Average ratio	66.50	33.50
Amount ($)	1,625,221.55	818,720.63

Table 1: Division using the global assessment methodology *without* the inclusion of the Bukit Timah Property (multigenerational matrimonial

88 See *VOD v VOC* [2022] SGHC(A) 6 at [36] and *TXW v TXX* [2017] 4 SLR 799 at [16].
89 *ATE v ATD* [2016] SGCA 2 at [18]–[22].
90 See *VOD v VOC* [2022] SGHC(A) 6 at Annex A.

home), with *equal weightage* attributed to direct and indirect contributions.[91]

	Husband	Wife
Direct contributions (50% weightage)	95.86	4.14
Indirect contributions (50% weightage)	40.00	60.00
Average ratio	67.93	32.07
Final ratio (rounded, if necessary)	68.00	32.00
Amount ($)	2,847,800.68	1,340,141.50

Table 2: Division using the global assessment methodology *with* the inclusion of the Bukit Timah Property (multigenerational matrimonial home), with *equal weightage* attributed to direct and indirect contributions.

	Husband	Wife
Direct contributions (75% weightage)	95.86	4.14
Indirect contributions (25% weightage)	40.00	60.00
Average ratio	81.89	18.11
Final ratio (rounded, if necessary)	82.00	18.00
Amount ($)	3,434,112.59	753,829.59

Table 3: Division using the global assessment methodology *with* the inclusion of the Bukit Timah Property (multigenerational matrimonial home), with *unequal weightage* attributed to direct and indirect contributions in the ratio of 75:25 respectively.

91 It should be noted that this was the outcome obtained by the Appellate Division in *VOD v VOC* [2022] SGHC(A) 6 after excluding, amongst other items, the Bukit Timah Property. However, for accuracy, the ratio ought to have been the following if the Appellate Division had not rounded the direct contributions from 92.90:7.10 to 93.00:7.00 before taking the average of both types of contributions. The outcomes are similar but not the same:

Without the Bukit Timah Property	Husband	Wife
Direct Contributions (50% weightage)	92.90	7.10
Indirect Contributions (50% weightage)	40.00	60.00
Average Ratio	66.45	33.55
Final Ratio (rounded, if necessary)	67.00	33.00
Amount ($)	1,637,441.26	806,500.92

See *VOD v VOC* [2022] SGHC(A) 6 at [116].

Class 1: Bukit Timah Property (Matrimonial Home)	**Husband**	**Wife**
Direct contributions (50% weightage)	100.00	0.00
Indirect contributions (50% weightage)	40.00	60.00
Average ratio	70.00	30.00
Final ratio (rounded, if necessary)	70.00	30.00
Amount ($)	1,220,800.00	523,200.00
Class 2: Remaining Pool of Matrimonial Assets	**Husband**	**Wife**
Direct contributions (50% weightage)	92.90	7.10
Indirect contributions (50% weightage)	40.00	60.00
Average ratio	66.45	33.55
Final ratio (rounded, if necessary)	66.00	34.00
Amount ($)	1,613,001.84	830,940.34

Table 4: Division using the classification methodology, with *equal weightage* attributed to direct and indirect contributions for both categories of matrimonial assets.

Class 1: Bukit Timah Property (Matrimonial Home)	**Husband**	**Wife**
Direct contributions (75% weightage)	100.00	0.00
Indirect contributions (25% weightage)	40.00	60.00
Average ratio	85.00	15.00
Final ratio (rounded, if necessary)	85.00	15.00
Amount ($)	1,482,400.00	261,600.00
Class 2: Remaining Pool of Matrimonial Assets	**Husband**	**Wife**
Direct contributions (75% weightage)	92.90	7.10
Indirect contributions (25% weightage)	40.00	60.00
Average ratio	79.68	20.32
Final ratio (rounded, if necessary)	80.00	20.00
Amount ($)	1,955,153.74	488,788.44

Table 5: Division using the classification methodology, with *unequal weightage* attributed to direct and indirect contributions in the *ratio of 75:25 respectively for both categories* of matrimonial assets respectively.

Class 1: Bukit Timah Property (Matrimonial Home)	Husband	Wife
Direct contributions (75% weightage)	100.00	0.00
Indirect contributions (25% weightage)	40.00	60.00
Average ratio	85.00	15.00
Final ratio (rounded, if necessary)	85.00	15.00
Amount ($)	1,482,400.00	261,600.00
Class 2: Remaining Pool of Matrimonial Assets	**Husband**	**Wife**
Direct contributions (50% weightage)	92.90	7.10
Indirect contributions (50% weightage)	40.00	60.00
Average ratio	66.45	33.55
Final ratio (rounded, if necessary)	66.00	34.00
Amount ($)	1,613,001.84	830,940.34

Table 6: Division using the classification methodology, with *unequal weightage* to direct and indirect contributions in the *ratio of 75:25 respectively for the Bukit Timah Property (multigenerational matrimonial home) only*.

40 Looking first at Tables 1–3, they show the use of the global assessment methodology for division. Specifically, Table 2 shows the division outcome when equal weightage is attributed to both direct and indirect contributions, while Table 3 shows the outcome when direct contributions are weighted at 75% and correspondingly, indirect contributions are weighted at 25%.

41 Although the courts do not award parties a share in each asset when using the global assessment methodology,[92] the author will assume for argument's sake that the courts do so in the following discussion to illustrate offsetting of one matrimonial asset against another. In both situations where equal weight is given to the types of contributions or more weight is attributed to direct contributions, the husband will have more than sufficient assets from his share (of the entire pool of matrimonial assets) to offset the wife's share in the Bukit Timah Property. This offset can happen as a result of division being concerned with the *value* of the matrimonial assets and not the assets *per se*. In most cases, unless the parties cannot agree, the courts are generally concerned with determining each party's share to the total value of the pool of

92 In most cases, the courts give parties the autonomy to decide the assets that they will retain or receive from division that amounts to the value of their awarded share from division.

matrimonial assets; the parties are then given the autonomy to determine which assets that each will receive and those that need to be sold to give effect to make up the remainder within each party's apportioned share. In any case, to give effect to the final apportioned shares, the courts could make an order for the husband to retain his ownership in the part interest in the multigenerational matrimonial home.[93]

42 Where equal weightage is used for both types of contributions (*ie*, Table 2), the wife's share in the Bukit Timah Property being a 32% share will only be $558,080.00. Where a higher weightage is used for the parties' direct contributions (*ie*, Table 3), the wife's share in the Bukit Timah Property being an 18% share will be significantly less – $313,920.00. The husband's shares from division being $2,847,800.68 in Table 2 and $3,434,112.59 in Table 3 are more than sufficient to buy over the wife's share in the Bukit Timah Property or for him to barter with the wife using the other matrimonial assets in the pool. Unsurprisingly, where the husband received a greater share from division as a result of a higher weightage being attributed to the parties' direct contributions, the husband has even more to offset against the wife's share in the Bukit Timah Property. Consequently, this means that the *status quo* with respect to life in the Bukit Timah Property – the multigenerational matrimonial home being the matrimonial home for another family – remains the same. The Bukit Timah Property will not need to be sold, and the husband's family can continue staying in the same property.

43 The ability for the husband's other assets to offset the value of the wife's share in the Bukit Timah Property is even stronger when the classification methodology is employed, as seen in Tables 4–6. In this regard, the author considered three scenarios. First, Table 4 presents the situation where equal weightage is given to both direct and indirection contributions across both classes of assets (*ie*, the multigenerational matrimonial home as one class of assets and the rest of the matrimonial assets as another class of assets). Second, Table 5 shows the division outcome where unequal weightages (75% for direct contributions and 25% for indirect contributions) are attributed to both classes of assets. Finally, Table 6 illustrates a novel situation[94] where unequal weightages (75% for direct contributions and 25% for indirect contributions) are only applied to one class of assets – the multigenerational matrimonial home – while the other class containing the rest of the assets uses equal weightages for direct and indirect contributions.

93 See for *eg*, *UZM v UZN* [2019] SGHCF 26 at [79] and *TND v TNC* [2017] SGCA 34 at [99]–[100].

94 The author was unable to find any reported decisions where unequal weightage was only applied to one class of matrimonial assets.

44 Using the classification methodology (as seen in Tables 4–6), the wife's share in the Bukit Timah Property (*ie*, the multigenerational matrimonial home) is reduced by at least 2% as compared to when the global assessment methodology is used. The greater justness and equitability in the division outcome is further seen where the classification methodology is compounded with the increase in weightage of the direct contributions to 75% instead of the default equal weightage of 50%, as demonstrated in Tables 5 and 6. When the weightage for the direct contributions is increased to 75%, the wife's share in the Bukit Timah Property is half (*ie*, 15% of the Bukit Timah Property in Tables 5 and 6) of that when the weightage is equal (*ie*, 30% of the Bukit Timah Property in Table 4). Consequently, the wife's share in the Bukit Timah Property can be more easily set off against the husband's share in the class of matrimonial assets. These are not insignificant proportions since multigenerational matrimonial homes are likely to have substantial value as compared to the other matrimonial assets.

45 In this regard, it is submitted that there are strong justifications for unequal weightage to be given, at least to the multigenerational matrimonial home. First, as noted above, *VOD v VOC* involved a short dual-income marriage, an accepted basis for increasing the weightage for direct contributions.[95] Second, the wife's contributions to the marriage did not lead to the acquisition of the Bukit Timah Home. The husband's parents paid for all renovations and groceries while the wife's indirect contributions were "limited to corresponding with contractors regarding the renovation of [the parties'] bedroom and the[ir] son's nursery" in the Bukit Timah Property.[96] It is also worth noting that the other legal owners of the property are the husband's mother and brother. Further, the wife's greater caregiving of the parties' child was already recognised by the courts by attributing 60% of the indirect contributions to her, despite the parties having a domestic helper.[97] This same reason should not be used again to justify a higher weightage for indirect contributions to avoid double counting of efforts. Third, the fact that the Bukit Timah Property is also owned *and* used by another family (*ie*, the husband's parents and brother) can justify the heavier emphasis on the direct contributions to the property. The author submits that the higher weightage attributed to direct contributions also allows for the special place of the multigenerational matrimonial home as the cradle[98] to the

95 See *ATE v ATD* [2016] SGCA 2 at [18]–[22].

96 *VOD v VOC* [2022] SGHC(A) 6 at [38].

97 *VOD v VOC* [2022] SGHC(A) 6 at [109]–[110]; *ANJ v ANK* [2015] 4 SLR 1043 at [27(c)].

98 See Leong Wai Kum, *Halsbury's Laws of Singapore* vol 11 (LexisNexis, 2006 Reissue) at para 130.788; *Chen Siew Hwee Hwee v Low Kee Guan* [2006] 4 SLR(R) 605 at [33]; *TXW v TXX* [2017] 4 SLR 799 at [16]–[18]; and *TND v TNC* [2017] SGCA 34 at [34].

husband's family to be recognised fairly. While there may be concerns that this is not a justification in and of itself, it bears remembering that the family's direct[99] and indirect contributions to the Bukit Timah Property are not considered in the Structured Approach – however substantial they may be – since the Structured Approach relates only to the *parties*' contributions to the marriage. Nonetheless, as noted above and by the Appellate Division in *VOD v VOC*, the husband's family's interests are a relevant consideration under s 112(2) of the Women's Charter. Therefore, the pragmatic (and principled) effect of the higher weightage to direct contributions can be used to credit the family's direct contributions to the acquisition of the husband's share in the Bukit Timah Property since it was a gift to the husband by his father.

46 Finally, if the courts are minded to not apply unequal weightage to the parties' contributions across both classes of matrimonial assets (as seen in Table 5, resulting from the party's short marriage and in recognition of the special nature of multigenerational matrimonial homes), the author submits that unequal weightage should at least be attributed to Class 1 of the matrimonial assets (*ie*, the Bukit Timah Property), as seen in Table 6. While this is a novel proposition by the author that has not been adopted by any court, the justifications above – especially the second and third justifications with respect to the wife's lack of contributions towards the acquisition of the Bukit Timah Property and the special nature of the same property as the cradle of the family to the husband's parents respectively – would provide strong bases for unequal weightage to be applied to the parties' contributions to the multigenerational matrimonial home. Notwithstanding its novelty, the courts have not ruled out the possibility of ascribing unequal weightage to only one class of matrimonial asset. The attribution of unequal weightage to the parties' contributions with respect to only the multigenerational matrimonial home will consequently uphold the special considerations given to that class of matrimonial asset.

47 Although there may be concerns that the illustration above may seem overly complicated and uncertain, the goal of the author's suggestion is to achieve a just and equitable division outcome for situations involving multigenerational matrimonial homes. Legal uncertainty is limited since there are few cases involving multigenerational matrimonial homes. Further, the use of the classification methodology is not commonplace thereby reducing legal uncertainty; there has to be good reason for the employment of the classification methodology in the first place. As noted

99 It is worth noting, from another perspective, the fact that the husband's legal interest and the husband's family's direct contributions to the Bukit Timah Property are attributed to him entirely under the Structured Approach.

above, this discussion is intended to provide more principled and justified tools for the courts to use in such situations depending on the facts of the case. It may well be that the classification methodology is employed without any adjustments to the weightages because it is not justified.

IV. Conclusion

48 The ways in which families organise their lives are neither uniform nor universal. Families may choose to set up their matrimonial homes in atypical ways, such as having multigenerational matrimonial homes instead of having a matrimonial home for just one family.[100] Nonetheless, it is important to remember the core concept(s) of a matrimonial home. *TQU v TQT* and *VOD v VOC* have demonstrated the issues (as expounded above) in only allowing one matrimonial property to be the matrimonial home to one family, despite the same property being the matrimonial home of another family.

49 In this article, the author has shown how a single property may be a multigenerational matrimonial home – a matrimonial home to more than one family at the same time. In advancement of his arguments, the author first showed how nothing in the Women's Charter precludes a property from being the matrimonial home to two families; second, multigenerational matrimonial homes should be divided similarly to other co-owned matrimonial assets for consistency; third, the consequences of dividing a share of a multigenerational matrimonial home are limited; and fourth, the classification methodology can be applied by the courts to take into account the ownership and residence of the other family in the multigenerational matrimonial home, and may be applied alongside the use of unequal weightages being ascribed to direct and indirect contributions. In this regard, the author submits that the fact that the property is the cradle to another family is a "clear reason to make a different calculation" for the multigenerational matrimonial home *vis-à-vis* the other matrimonial assets.

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100 This phenomenon may well become more prevalent as property prices (for private or public housing) increase. That said, it is less likely for multigenerational matrimonial homes to feature in situations involving public housing because these are usually purchased by the parties instead of their parents when the former are married.