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# COURTROOM INSIGHT

**Teo Chee Cheong v Chiam Siew Moi [2024] MLJU 2936**

*Clarifying Assets Division and Spousal Maintenance in Malaysia*

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# Introduction

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The Malaysian Court of Appeal’s decision in **Teo Chee Cheong v Chiam Siew Moi [2024] MLJU 2936[1]** has provided important clarification on what constitutes “assets” in matrimonial proceedings, the division of matrimonial assets, as well as the treatment of Employees Provident Fund (“EPF”). This case involved a high-value matrimonial dispute of RM87,774,567.52 between a Respondent Husband (“RH”), whom is a wealthy businessman and his former spouse, the Petitioner Wife (“PW”).

The judgment is significant not only because of its substantial monetary stakes, but also because of the principles it reiterates and refines, particularly regarding the “*broad brush*” approach in asset division, the allocation of the burden of proof in matrimonial cases, and the treatment of spousal maintenance claims.

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[1] Teo Chee Cheong v Chiam Siew Moi [2024] MLJU 2936 (COA)



# *Background*

## *Facts:*

- The marriage between RH and PW began in 1997 and subsisted until 2015, when the PW left the matrimonial home. Throughout the marriage, RH was a businessman of considerable means while PW, formerly employed as a flight stewardess with Malaysia Airlines, gave up her career after she began her relationship with RH.
- The matter was first heard before the High Court, which rendered its decision on the division of assets and spousal maintenance. Dissatisfied with the outcome, RH appealed to the Court of Appeal, while PW filed a cross-appeal challenging certain aspects of the High Court's findings.

# *Court Rulings & Reasoning:*



## **High Court Decision**

In regards to the division of assets between the PW and RH, the court decided the division of matrimonial assets is required to “incline towards equality of division” after taking into consideration the factors in **Section 76(2) of the Law Reform (Marriage and Divorce) Act 1976 (“LRA”)**. The court took into account of the RH’s financial contributions towards the acquisition of the properties and the expenses for the benefit of the family. For PW side, the court took into consideration of the contributions to the welfare of the family and the duration of the marriage. The court divided all the assets at the ratio of 44:56 for PW and RH respectively.



## **Court of Appeal’s Decision**

There are a few key legal issues discussed in this case.

### **1.What constitutes “assets” that can be divided?**

The court only has the power to divide the assets which fall under the ambit of **s.76(1) of the LRA** and **s.76(5) of the LRA**: –

- s.76(1) LRA – all assets acquired during the marriage (whether by one or both spouses);
- s.76(5) of the LRA – pre-marriage assets may be divided if they were substantially improved during the marriage by the other spouse or through joint efforts.



The court adopted a liberal view of “substantial improvement,” extending beyond financial or physical contributions to include efforts that enhanced the value or use of the asset.

It also clarified that the earlier distinction between “matrimonial property” and “non-matrimonial property” is not supported by the LRA.



## **2. How should the court exercise its discretion to decide on the division of assets under S76 of LRA?**

The Court of Appeal emphasised that issues relating to child maintenance and spousal maintenance must be accorded priority and determined first, before the court proceeds to the division or sale of assets. In exercising its discretion under s.76, the court should begin with an inclination towards equality of division (50:50) and then adjust the division by reference to the statutory considerations, including financial and non-financial contributions, debts for the joint benefit, the needs of the children, and the duration of the marriage. Importantly, the court adopted a “broad brush” approach in exercise of its discretion, meaning that the division of assets is not undertaken through a meticulous accounting or auditing process. Nonetheless, such discretion must be exercised judicially, with cogent reasons provided for the division, as the decision ultimately sustains the legitimacy of the decision.



### **3. How to decide PW Monthly Spousal Maintenance Sum?**

Under **s. 78 of the LRA 1976**, the assessment of spousal maintenance must be guided primarily by the means and needs of the parties. In this case, the Court of Appeal affirmed the High Court decision of awarding PW a sum of RM20,000.00 per month as spousal maintenance is rightly exercised due to the reasons as followed:-

- a) RH was a man of substantial financial means;
- b) PW had resigned from her employment after the marriage and was wholly dependent on RH for financial support; and
- c) RH had maintained PW in a luxurious lifestyle throughout the marriage, which the law recognises should not be denied to her after separation.

However, the court ultimately released the RH from his obligation to pay PW's monthly spousal maintenance sum due to the RH had already paid the Division Award amounting to RM27,121,653.23 to the PW.



### **4. Who has the burden of proof on the assets that can be divided and /or sold by the Courts?**

The court held that a petitioner in a divorce petition carries both the overall legal and evidential burden to prove, on a balance of probabilities, the matters necessary for the division of assets, as below:-

- a) What are the assets that can be divided/sold by the Court?
- b) Whether the court should adopt a Particular Date or Different Dates in respect of the Court's Division (Assets/Sale Proceeds)?; and
- c) What is the ratio(s) to be imposed by the court with regard to division and/or sale of the assets?



### **5.Can the court divide a spouse’s EPF funds under S 76 LRA?**

The Court of Appeal confirmed that EPF contributions made after the marriage (post-marriage EPF funds) fall within the meaning of “assets acquired during the marriage” under **s.76(1) LRA**. In regards to EPF funds accumulated pre-marriage, it should not fall under divisional of assets by virtue of **S 76(5) of the LRA 1976** because there was no substantial improvement during the marriage by other spouse or by both spouses. However, the Court took into account the exceptional circumstance of RH’s withdrawal of RM500,000.00 from his EPF account while the case was still pending. As a result, the Court dismissed RH’s appeal and increased PW’s entitlement from 30% to 40% of the divisible EPF balance.

## *Conclusion:*

The Court of Appeal's ruling in this case provides valuable clarity on the division of matrimonial assets, including the treatment of EPF savings, and the proper assessment of spousal maintenance. The judgment reaffirms that courts will consider both financial and non-financial contributions of spouses, apply a "broad brush" approach rather than a rigid accounting exercise. Above all, the case underscores that fairness and equity remain the guiding principles in resolving matrimonial disputes, making it a significant reference point for both couples and legal practitioners in Malaysia

*The views expressed herein are those of the author and do not necessarily reflect the views of the firm. Should you have any legal queries, corporate or otherwise, please feel free to reach out to the firm for further assistance.*



For further legal advice on Family Law (Matrimonial Causes), please contact us, **Y Kong Wong & Partners**.

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