

HONG KONG / JUDGMENT

TKY v. YSGA**[2023] HKFC 181****COURT**

Family Court

DECIDED

7 September 2023

CASE / FILE NUMBER

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bjbj FCMC 2208/2023 (formerly FCMC 903/2022)

**[2023] HKFC 181 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION MATRIMONIAL CAUSES NO. 2208 OF 2023**

BETWEEN TKY Petitioner and YSGA Respondent

Coram: HH Judge C.K. Chan in Chambers (Not Open to Public) Mode of Hearing: By way of
written submissions Date of Petitioner s Written Submissions: 7 March 2023 Date of Respondent s
Written Submissions: 11 April 2023 Date of Petitioner s Reply Submissions: 19 July 2023 Date of
Hanging Down Judgment: 7 September 2023

J U D G M E N T (MPS/Interim Maintenance)

This is a hearing of the petitioner wife (the wife s application for maintenance pending suit ()/
interim maintenance () against the respondent husband (the husband). I note that both counsel
have referred to the application simply as MPS but I have decided to use the term MPS/interim
maintenance or MPS/IM instead because the term interim maintenance were the actual wordings
used in the summons. I understand that many practitioners have the habit of using those 2 terms
(i.e. MPS and IM) interchangeably, but there is in fact a subtle difference between the two. For
MPS, it is an order to be granted under section 3 of the Matrimonial Proceedings and Property
Ordinance, Cap. 192 (MPPO) for the benefit of a spouse, while IM is an order of maintenance,
despite its interim nature, for the benefit of a child of the family, presumably under section 5 of
the same Ordinance. Despite such difference, it is widely accepted that the legal principles
governing both applications are in fact similar. Parties Respective Position In her summons dated

17 November 2022 (A/1-2), the wife asked for: IM for the benefit of the household and 2 children of the family in the sum of HK\$164,800 per month, to be back dated to 31 January 2022; and Legal costs provisions () as follows: From 31 January 2022 to 31 October 2022, a sum of HK\$158,800 per month, totalling HK\$1,588,000 forthwith; From 1 November 2022 onwards at HK\$163,893 per month until the Financial Dispute Resolution (FDR) hearing or further order, whichever is earlier, payable on the 1st day of each month; and Amount to be determined by the Court, payable on the 1st day of each month, from FDR hearing or further order specified in (b) above for the remaining period of these proceedings. Despite such prayers in the summons, in counsel s skeleton submissions, Mr. Chan for the wife has modified the claim for LCP to:

- (i) HK\$158,000 from January 2022 to October 2022; and (ii) HK\$203,733 (with Senior Counsel to be engaged) or HK\$173,200 (with only junior counsel to be engaged) per month from November 2022 to January 2024 (estimated date of FDR). For various reasons which will be discussed briefly below, the husband asked for the summons to be dismissed, or alternatively, the court should only grant a MPS order in the sum of HK\$22,750 per month, with no LCP or backdating, and costs to the husband. Brief Background The wife is aged 41. She is a Certified Accountant and currently a partner of a reputable international accountancy firm. The husband is also aged 41. According to him, he is now running his own real estate consultancy. The parties were married in 2018 and separated in 2022. This was a relatively short marriage of 4 years. Within wedlock, 2 daughters were born and they are now aged 4 and 3 respectively. The wife issued a petition for divorce based on behaviour on 31 January 2022, but that was later amended to 1-year consent on 2 March 2023. A decree nisi of divorce has been granted on 15 June 2023. For the custody of the 2 children of family, the parties had quite divergent views on their arrangement. A trial has just been conducted thereon and the court s decision is still pending. On 28 November 2022, the wife issued the present application for IM, which was opposed by the husband. Directions were given for the application to be decided on paper, and after reading the parties submissions, these are the decisions of the court. Legal Principles on MPS/IM
11. In *HJFG v KCY*, Hartmann JA, at paragraphs 37 and 38 of the judgment, gave a succinct summary of the law in this area by referring to the judgment of Mostyn QC, sitting then as a Deputy Judge of the High Court in England, in *TL v ML* [2006] 1 FLR 1263, 1289:
37. The principles that have been emerged over time to guide judges in matters of interim maintenance have been fashioned in the main to ensure fairness. This is well illustrated in the judgment of Nicholas Mostyn QC, sitting then as a Deputy Judge, in *TL v ML* [2006] 1 FLR 1263, 1289, in which, having looked at earlier authorities, he derived the following principles that speak specifically to fairness or are based on the need to ensure it. For present purposes, it is sufficient to cite the relevant principles without citing the Judge s reference to the source of those principles: The sole criterion to be applied in determining the application is reasonableness, which is synonymous with fairness. A very important factor in determining fairness is the marital standard of living. This is not to say that the exercise is merely to replicate that standard. In every maintenance pending suit application there

should be a specific maintenance pending suit budget which excludes capital or long-term expenditure, more aptly to be considered on a final hearing. That budget should be examined critically in every case to exclude forensic exaggeration. Where the affidavit or Form E disclosure by the payer is obviously deficient, the court should not hesitate to make robust assumption about his ability to pay. The court is not confined to the mere say-so of the payer as to the extent of his income or resources. In such a situation, the court should err in favour of the payee.

38. Finally, it is to be noted that in application for interim maintenance, when the amount to be paid is for a limited period only and not all the evidence is necessarily before the court, it is not appropriate, nor indeed in most cases possible, for the court to conduct a detailed investigation into the finances of the parties. While, in order to determine what is or is not reasonable, some analysis is always required, that analysis can be conducted on a broad-brush basis.
12. Therefore, the overriding considerations for such applications are reasonableness and fairness. In order to achieve these objectives, the Court has to balance the reasonable needs of the applicant and the ability to pay of the respondent on an interim basis: LJ v LWHH [2003] 3 HKC 455 at 461D.
13. In undertaking this balancing exercise, the Court will adopt a broad brush approach, and not a detailed investigation of the financial positions of the parties.
14. I do not think the above general principles are in dispute. Interim Reasonable Needs of the Wife and Children
15. At paragraph 88 of the wife's 2nd Affirmation (A/35-38), she set out her claims for MPS/IM as follows (by reference to Part 4 of her Form E):
Part 4 Current Monthly Expenses
4.1 General
Item Amount
Rent 62,000
Mortgage instalments 0 (set off by rental income)
Utilities (electricity, gas, rates, telephone & water) 5,000
Management fees 0 (set off by rental income)
Food 15,000
Household expenses 8,000
Car expenses 12,000
Insurance premia 0
Domestic helper(s) 15,000
Other (specify) 0
Total monthly household expenses HK\$117,000
4.2
Personal Expenses Nil
4.3 Children
Item Amount
School fees 35,000
Extra tuition fees School books and stationery 1,000
Transport to school (including school bus) 0
Medical / Dental 0 (covered by insurance)
Extra Curricular Activities 5,000
Entertainment / presents 2,000
Holidays 0
Clothing / Shoes 1,000
Insurance premia 0
Lunches and pocket money 1,500
Other Transport 0
Child-minding fees 0
Uniform 300
Others (toys and books) 2,000
Total monthly expenses for children HK\$47,800
Total Monthly Expenses (4.1 + 4.2 + 4.3) HK\$164,800
16. It is to be noted that the wife is not claiming any MPS for her own personal expenses, which she quantified at HK\$100,000 per month. Basically, she is saying that she could afford her own expenses, whilst the husband should bear the general and children expenses.

17. The husband raised objections to various items of the general and children expenses on which I shall give my broad-brush views. In his objections, the father stated how much he was willing to pay as his share. But in my following assessment, I would first rule on the amount of reasonable expenses to be incurred by the wife and the children. At a later stage, I would consider the father's ability to pay, after which I would rule on how much he has to pay or share.
18. For the objected items: The wife claimed a monthly sum of HK\$62,000 as rent. The husband said he would only share 25% of it (HK\$15,500) as the wife could utilize her rental allowance from her employer. As I said above, I would assess the item's reasonableness as a whole first and leave the sharing part to a later stage. I note that the family was previously housed in a rather luxurious home at Pokfulam (the Pokfulam Residence) owned by the paternal grandparents. I am satisfied that rental payment of HK\$62,000 for a flat smaller in size than the Pokfulam Residence is not unreasonable. The wife asked for HK\$5,000 as utilities payment. The husband offered HK\$1,250. Again, I do not think the father is objecting to the fact that wife is actually paying this sum, but only that he would only agree to pay 25% of that amount. I am satisfied that the monthly expenses of HK\$5,000 on utilities is reasonable. The wife asked for HK\$15,000 as food, but the father only offered HK\$5,000. I understand that this family used to have 2 domestic helpers and it would not be unreasonable for the wife to also engage 2 domestic helpers to assist her in child caring. But even for a household of 5 persons, I have to take into account that the 2 children are spending a not insignificant amount of time with the husband. Moreover, the wife claims to be spending HK\$10,000 as her own meals out of home. Therefore, I would say a monthly sum of HK\$12,000 for food for the general household sounds more reasonable. For household expenses, the wife asked for HK\$8,000, whilst the husband only agreed to HK\$1,000 saying that she had failed to provide clear breakdown and the sum being excessive. I agree that the sum of HK\$5,000 may sound more reasonable. The wife asked for HK\$12,000 as private car expenses. The husband said he has already given a Volvo for the wife's use and so he objected to this item. The wife accepts that she is having the use of the Volvo but she said the associated outgoings of the car, set by her at HK\$12,000 should be borne by the husband. For my part, I would assess the monthly outgoings of the car, e.g. petrol, ad hoc car parking, etc., at HK\$5,000. I have already said above that the engagement of 2 domestic helpers by the wife is reasonable, and so is the monthly outgoings at HK\$15,000 in this regard. The wife asked for the children's school fees at HK\$35,000. The husband said he undertook to pay for the children's school fees. I have no reason to believe the husband would default on his undertaking. I would accept his undertaking to pay the children's school fees. For expenses on school books and stationary, I am not convinced that it is reasonable or practicable for them to be covered by the husband's undertaking. Therefore, I would accept HK\$1,000 to be included in the wife's monthly budget for the children. For ECA at HK\$5,000. The husband said he was not consulted on the children's ECA and it was unreasonable for him to pay for whatever ECA to be arranged by the wife. Of course, I would expect the parties to discuss on future ECA for the children. But for the assessment of the amount payable on the children's ECA, I am

satisfied the monthly sum of HK\$5,000 is reasonable. For entertainment/presents, the wife asked for HK\$2,000. The husband objected quoting the lack of consultation and the amount being excessive. I am satisfied that HK\$2,000 is reasonable. For clothing/shoes, the wife asked for HK\$1,000. The husband objected saying that he had also bought clothing and shoes for the children. That may be the case, but I do not consider the wife spending HK\$1,000 per month for 2 children is in any way unreasonable. For lunch/pocket money, the wife asked for HK\$1,500. The husband objected saying that the children would have lunch at home most of the time. HK\$1,500 is a modest sum which I do not consider to be unreasonable. For uniform, the wife asked for HK\$300. The father did not object to the quantum but he said he would give an undertaking to cover that. I do not consider an undertaking on this outgoing to be practicable. I would allow this item of uniform in the sum of HK\$300. For toys and books, the mother asked for HK\$2,000. The father objected by saying that these should have been covered by other items, e.g. school books and entertainment/presents. He said he would also buy toys and books for the children. I do not consider the husband's objection to be reasonable. I would allow the sum of HK\$2,000 for this item.

19. By way of summary, and based on the husband's undertaking to pay for the 2 children's school fees, I am satisfied that the wife and the children are having the following interim reasonable needs as far as the general expenses and children's expenses are concerned:
General Expenses Rent 62,000 Utilities 5,000 Food 12,000 Household expenses 5,000 Car expenses 5,000 Domestic helper(s) 15,000 Total monthly household expenses HK\$104,000
Children Expenses Item Amount School fees 0 (by undertaking) School books and stationery 1,000 Extra Curricular Activities 5,000 Entertainment / presents 2,000 Clothing / Shoes 1,000 Lunches and pocket money 1,500 Uniform 300 Others (toys and books) 2,000 Total monthly expenses for children HK\$12,800 Total Monthly Expenses HK\$116,800
20. Although the wife has deliberately left out her own expenses (HK\$100,000) in this application for MPS/IM, I think it is only fair for the court to have brief consideration thereon as this might affect her ability to contribute towards the general expenses and children expenses. The wife set out her own expenses in the Form E as follows: 4.2 Personal Item Amount Meals out of home 10,000 Transport 5,000 Clothing / Shoes 15,000 Personal grooming (including haircut and cosmetics) 3,000 Entertainment / presents 3,000 Holiday 5,000 Medical / Dental 3,000 27,000 Insurance premia 17,000 Interim maintenance 0 Contribution to parents 12,000 Dependent family members 0 Others (specify) 0 Total monthly personal expenses HK\$100,000
21. I note that the husband claims that his personal expenses amount to HK\$16,410 only, implying that the wife's expenses must be excessive. Whilst I accept that different individual may have different needs or spending patterns, but if the wife is claiming financial difficulty in supporting the children, I agree that there may be room for her to practise some economy in her monthly budget. On a broad-brush basis, I would reduce her expenses on meals out of home by HK\$3,000 to HK\$7,000. I note that she is claiming private car expenses and so I

would reduce her transport expenses by HK\$3,000 to HK\$2,000. Clothing could be reduced by HK\$8,000 to HK\$7,000 and holidays by HK\$3,000 to HK\$2,000. There is no evidence on the needs of the wife parents and so I would take out this item on contribution to parents at HK\$12,000 altogether. In short, I would reduce the wife s reasonable monthly expenses by HK\$29,000 to HK\$71,000. The Parties Respective Ability to Pay The Wife s Financial Circumstances

22. The wife is a partner in a reputable international accountancy firm. She said her total monthly income was HK\$160,000. The husband disputed by saying that there was insufficient financial disclosure and there was evidence suggesting that the wife might be entitled to various allowances from the company.
23. It is my view that it is not uncommon for the remuneration package of private companies to be structured in a way to minimise taxation. Therefore, it is not surprising that some of the wife s remuneration are paid through allowances, instead of by direct salary. For the purpose of this hearing, I am satisfied that the wife s total monthly income is HK\$160,000.
24. In her Form E, the wife stated that she was the registered owner of a property at Happy Valley (the Yik Yum Property). She stated to be a 70% beneficial owner with 30% holding on behalf of the husband s friends. The property was valued at HK\$12,880,000 net. The property was rented out at HK\$19,500 which was just sufficient to pay the mortgage and related expenses. I am satisfied that it may not be possible for the Yik Yum Property to be liquidated to cater for the wife and the children s immediate needs at this interim stage.
25. The wife also stated in her Form E that she had cash of HK\$260,000 and stocks in the sum of HK\$330,000, but at the same time, she also had liabilities of HK\$960,000, mainly in the form of credit card debts. The Form E was dated 27 May 2022, which was more than a year ago. There was no update on her asset position in the wife s supporting affirmation, except by saying that she had inadvertently omitted to report the loans she owed to her cousin Howard at HK\$350,000.
26. At this interim stage, I am satisfied that the wife is not having any immediately realisable assets that she may deploy to cover her monthly expenses and legal costs in the interim period.
27. With a monthly income of HK\$160,000 and personal expenses of HK\$71,000, I am satisfied that the wife does have ability to contribute HK\$89,000 towards the general and children expenses. In paragraph 19 above, I have determined that the reasonable monthly general and children expenses are HK\$116,800, and therefore I am satisfied that the wife is having a monthly deficit of HK\$27,800 ($\text{HK\$116,800} - \text{HK\$89,000} = \text{HK\$27,800}$), as far as the general and children expenses are concerned. The Husband s Financial Circumstances
28. The husband s financial ability is highly contentious. However, I have to remind myself that this is a MPS/IM application at which there will not be a detailed and in-depth investigation of the parties respective financial circumstances.

29. In his Form E, the husband stated that he was employed and self-employed. I think what he meant was that he was employed by RCL, which is a business owned by his father, but with minimal personal involvement in the sense that he only represents the company to attend industrial conference about once every 2 years. He said he received a monthly income of HK\$19,570 from this company.
30. The husband's more full-time business engagement is with ARECL, a real estate consultancy in identifying properties with redevelopment potentials for clients. It was a company established on 1 April 2022 but not yielding any notable income for him.
31. It is not surprising that the husband's rather limited income is now challenged by the wife. She viewed this as a deliberate tactic to downplay his income and assets so as to defeat the wife's claim for ancillary relief or maintenance for the children. It is also the wife's case that the husband comes from a very rich family and he must have received generous financial support from his parents. Discussion
32. By looking at the husband's tax returns for 2019/2020 and 2020/2021, the husband's then annual income were HK\$1,026,015 and H\$720,127 respectively, averaging about HK\$85,000 a month in 2019/2020 and about HK\$60,000 a month in 2020/2021. He said he resigned from his then employment (with a company called PL) in 2020 because he wanted to spend more time with his 2 young children. I accept that this was not a litigation tactic as that happened sometime before the wife's petition for divorce in 2022.
33. Be that as it may, I have to point out that the court is more concerned with a party's earning capacity, but not simply on how much a party choose to earn. In this regard, I note that the husband is aged 41. He is still in his prime years (of course, the same can also be said of the wife). He has received very good education and graduated from a reputable university in USA. He used to assist in the family business and as a matter of fact, he is still holding some shares in certain family companies. There is no reason why he could not return to work full time for the family businesses.
34. Furthermore, it is quite clear that the husband has received, and is still receiving financial support from his family. The most obvious one is the provision of a rather luxurious accommodation at the Pokfulam Residence. According to him, he has received millions of dollars of loans from his mother, to purchase the Yik Yum Property and for daily expenses (A/147). Even if this court accepts these so called loans were in existence, they had to be in the form of soft loans, with no pressing need for immediate repayment. Of course, I am not saying that the husband must have unlimited financial resources simply because he is the son of a wealthy father. But I am prepared to assume that the husband must be in better financial position than a person earning simply HK\$19,750 per month.
35. The next question to be asked is: under these circumstances, how much income should this court infer the husband to be earning? Or put it differently, how much is the husband able to earn if he has exercised his reasonable earning capacity, either seeking a reasonably remunerated employment, or simply going back to work for the family businesses? Before a

full-blown trial is possible, and proceeding on a broad-brush basis, I am prepared to infer the husband is having an earning capacity similar to that of his monthly income in 2019/2020, i.e. a monthly sum of HK\$85,000.

36. As to the husband's other assets, the husband's stance is that his interest in the Yik Yum Property is about HK\$1,721,400 (A/141). He also has HK\$3,114,506 cash in his bank accounts (A/142). He still has 3 cars (A/144). Even though one of them (a Volvo) is to be used by the wife, the husband is still driving 2 Mercedes (E350 and E03). The combined estimated value of the 3 cars were HK\$950,000.
37. As to the husband's outgoings, they were reported as HK\$141,110 in his Form E (A/152), but over half of that amount was for payment of rent for the wife and the children (HK\$31,000), domestic helpers mainly for child care (HK\$15,000) and school fees (HK\$35,000). If we take away some other expenses like mortgage repayment at HK\$18,000 (which according to the wife, would be covered by the rent received), insurance premia at HK\$6,000 and other various expenses of the children at HK\$9,900, the personal expenses of the husband were only HK\$26,200, which cannot be regarded as unreasonable in the circumstances of this case.
38. Before we come to a determination on the husband's financial ability to pay MPS/IM, we need to address a very important facet of the wife's argument, i.e. the alleged enormous wealth of the husband's parents. The wife is saying that the husband comes from an extremely wealthy family. During marriage, the family was housed at the Pokfulam Residence, which was large and luxurious. The house was owned by the husband's parents and they were allowed to stay there rent free. All the household expenses were covered and 2 domestic helpers were employed to look after the children. In her supporting affirmation, the wife has used a very large section to delve into the enormous wealth enjoyed by the husband's family and also by the husband himself.
39. In my judgment, whether the husband's parents could be regarded as enormously wealthy is a topic subject to debate. Certainly, this hearing is not a suitable forum for such debate. Be that as it may, I have, at paragraph 34 above, ruled that the husband must have, and still is receiving financial support from his family. By such ruling, I was further prepared to infer the husband is having an earning capacity of HK\$85,000 per month and I would thereafter say no more on the so called enormous wealth of the husband's parents in this judgment.
40. Based on the above discussion, I am prepared to order the husband to pay IM at the rate of HK\$27,800 for the children, to be rounded up to HK\$28,000 per month in order to cover the deficit of the wife. By this amount, I am fully aware that the husband would be running a small deficit each month: HK\$85,000 (inferred earning capacity) HK\$35,000 (school fees) HK\$15,000 (domestic helpers) HK\$6,000 (insurance premia) HK\$9,900 (various expenses on the children) HK\$26,200 (personal expenses) HK\$28,000 (IM) = HK\$35,100 in deficit. But with his current cash in bank and further financial support from family, I am satisfied that this is a reasonable arrangement for IM to be put in place until further order. The IM should

also be backdated to 1 December 2022. Legal Costs Provision

41. The second part of the wife's summons is for LCP. Her case is that she has now exhausted her financial resources, and in order to continue with her application of ancillary relief, a LCP has to be sought from the husband.
 42. In counsel's written submissions, Mr. Chan for the wife has set out the number of complicated issues that have to be dealt with in the wife's ancillary relief application. These issues include the investigation into the substantial financial resources of the husband's parents; the understatement of the husband's income and earning capacity; the concealment of his shareholding and directorship in family businesses; his concealment of closed down business; his dissipation of large sums to his mother and family businesses; the dispute on the beneficial ownership of 2 landed properties; and dispute as to the truthfulness and nature of loans allegedly owed by the husband to this mother.
 43. Mr. Chan has further set out the procedural steps and interlocutory applications that have to be taken out, including the present MPS/IM application; specific discovery application; third party discovery application against the husband's parents or family businesses; section 17 application; and TL v ML application on beneficial ownership of certain properties or assets. Due to the complexity of these issues, the wife intends to instruct Senior Counsel at an hourly rate of HK\$12,000 with assistance from a Junior at the hourly rate of HK\$2,800. Only if a Senior Counsel is not allowed that she would consider to instruct a more senior junior.
 44. At paragraph 44 of her 5th Affirmation (A/108-109), the wife set out her legal costs to be incurred from then to FDR (basically covering a period from CDR to FDR) in the sum of HK\$3,216,000. Assuming that the FDR will take place in 15 months time, the average monthly legal costs will be HK\$214,400 ($\text{HK\$3,216,000} / 15 = \text{HK\$214,400}$). However, by the time of this MPS/IM application, the trial on custody has already taken place and so Mr. Chan revised the wife's LCP budget in paragraph 33 of his written submissions. The revised legal costs from CDR to FDR has come down to HK\$3,056,000. If divided by 15, the average monthly legal costs will become HK\$203,733. Alternatively, if Senior Counsel is not allowed, the estimated legal costs will be HK\$2,598,000, averaging HK\$173,200 a month over a period of 15 months from now to FDR.
 45. The husband objects by saying that the wife's legal costs must be inflated. In the wife's Form H dated 2 February 2023, i.e. before the custody trial and the present application for MPS/IM, the wife has already incurred a staggering sum of HK\$3,587,200 on costs (B2/299-300). If the costs of the custody trial are to be included, the total costs incurred will become HK\$4,030,400. Counsel submitted that these costs are disproportionate and suggestive of inflated figures. Counsel further submitted that the wife also fails to demonstrate that she has no assets or none that can reasonably be deployed by her for legal costs. Those assets include her stocks worth HK\$300,000 and undisclosed personal valuables of HK\$956,654.
- The law

46. In *H v H (Interim Maintenance)* [2007] HKFLR 311, HH Judge Bruno Chan (at paragraph 44 of his judgment) cited the English Court of Appeal case of *Currey v Currey* [2006] EWCA Civ 1338 as follows:
44. There is no question over the court's jurisdiction to award a costs allowance in an order for maintenance pending suit subject to certain fairly stringent conditions, as recently refined by the English Court of Appeal in *Currey v Currey* [2006] EWCA Civ 1338, [2007] FLR as follows: That the applicant has no assets, or none that can reasonably be deployed. That she can provide no security for borrowing, or none which can reasonably be offered. That she cannot reasonably obtain legal services by offering a charge on the outcome of the litigation. That she cannot secure publicly funded legal help at a level of expertise apt to the proceedings.
47. I do not think that the above legal principles on legal costs allowance are in dispute.
- Discussion
48. One of the husband's main objections to LCP is the amount claimed being totally out of proportion and must have been inflated. On the face of it, there is some force in the argument. But if one looks at the costs incurred by the husband, one would realise that such argument is rather disingenuous. According to counsel's submissions (at paragraph 45), the wife's total costs of HK\$4,030,400 was in fact HK\$600,000 more than H, indicating that the costs incurred by the husband was in the region of about HK\$3,400,000. Obviously, both parties' costs were disproportionate.
49. The husband also contended that the wife should have sufficient assets or borrowing powers to cover her future legal costs. But by looking at the rather uncompromising approach adopted by the parties in this litigation, I am not surprised that much of the wife's available financial resources have already been spent on legal fees.
50. As far as the husband's ability to pay LCP, I think there is little dispute that the amount of assets that are currently under his name is not substantial. They include some cash in bank (about HK\$3,100,000), and some interest in landed properties (the Yik Yum Property) which is not readily realisable. However, it is the case of the wife that the husband comes from a very wealthy family and therefore, an investigation into the family fortune is justified in order to see whether he has any hidden interest therein. That is why she views the instruction of Senior Counsel and the taking out of a long list of interlocutory applications being justified.
51. In my view, whilst the intended investigation into the financial well-being of the husband's parents cannot be concluded as totally without merit at this rather early stage, one also has to bear in mind the fact that this was a relatively short marriage of 4 years (the parties married in 2018 and separated in 2022). Joint marital acquests or asset accumulation cannot be regarded as very substantial. The wife is a Certified Accountant working as a partner in a reputable international accountant firm, earning a good income of HK\$160,000 per month. On the contrary, the husband's independent earning capacity has never been high in

comparison with the wife. In his good years, his average monthly income was about HK\$85,000 (2019/2020). There is no doubt that the husband has received financial assistance from his family, in terms of living in a rather luxurious home (the Pokfulam Residence) provided by his parents and receiving loans (or gifts as contended by the wife) for the purchase of landed properties or to cover some of his monthly expenses. But a claim for HK\$3,056,000, or even a lesser sum at HK\$2,598,000 is a sum simply too high as LCP just for financial investigation, related interlocutory applications and FDR. I would say that a sum of about HK\$1,200,000 (roughly about half of the lesser sum) is a more reasonable figure, covering a period of 12 months, by which time a FDR is expected to be ready. Within this budget, whether the wife would engage a more senior counsel is simply a matter of her own decision. It may be high time for her to consider practising economy in budgeting her legal costs. Equally, I would expect the same from the husband in budgeting his legal costs in future litigation. There will not be any backdating of the LCP.

52. If one should take a step back to look at the final result, with both children's school fees being covered by the husband's undertaking and a Volvo being provided, the wife will have a monthly budget of about HK\$188,000 (HK\$160,000 + HK\$28,000 = HK\$188,000) for her and 2 children's expenses, which I believe would give them a reasonable living standard comparable to the one enjoyed during marriage. In addition, she will also have LCP of HK\$1,200,000 which is, in my view, enough for her to obtain high quality legal service to pursue her claim for ancillary relief up to FDR.
53. On the other hand, if one should look from the angle of the husband, he might have to dig into his capital in order to cover the MPS/IM and LCP order. But I am sure that he could still afford them, and if necessary, with assistance from his family. Conclusion and Order
54. Based on the above discussion and subject to the undertaking of the husband to pay the children's school fees, I will grant the following MPS/IM order: The husband shall pay a monthly sum HK\$28,000 to the wife as the children's interim maintenance (HK\$14,000 each) payable on the 1st day of every month, starting 1 December 2022, until further order of the court. The husband shall pay MPS by way of legal costs provision in the sum of HK\$1,200,000 payable by 12 monthly instalments of HK\$100,000 each on the 1st day of every month starting 1 October 2023 and the last instalment ending on 1 September 2024. Costs
55. Costs to follow event. The wife has to come to court before getting the MPS/IM orders and therefore, should also get the costs of the application, including all costs reserved, with certificate for counsel. This will be in the form of an order nisi to be made absolute after the expiry of 14 days from the handing down of this judgment. Within 14 days from the costs order being made absolute, the wife shall lodge and serve a 2-page (A4 paper) statement of costs for summary assessment and the husband to lodge and serve his list of objections (if any) also limited to 2 pages of A4 paper within 14 days thereafter. Upon receipt of these documents, the court will proceed to assess the costs on a summary basis. C. K. Chan District Judge Representation (By way of written submissions): Mr. Ken Chan, Barrister-at-law instructed by Messrs. Wellington Legal, solicitors for the Petitioner Ms. Madeleine

Booth, Barrister-at-law, instructed by Messrs. Withers, solicitors for the Respondent

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Prepared on 26 October 2026 · Esheria