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Clement Yong
District Judge
13 June 2022

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE
[2022] SGFC 51

Divorce No 436 of 2017
FC/SUM 2088 of 2020

Between

WEI

... Plaintiff

And

WEJ

... Defendant

JUDGMENT / GROUNDS OF DECISION

[Family Law] — [Custody] — [Care and control]

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WEI
v
WEJ

[2022] SGFC 51

Family Court — Divorce No 436 of 2017 (Summons No 2088 of 2020)
District Judge Clement Yong
24 November 2020, 11 May 2021, 24 May 2021, 13 December 2021
24 February 2022, 17 March 2022, 7 April 2022, 12 May 2022
6 June 2022

13 June 2022

Judgment reserved.

District Judge Clement Yong:

Introduction

1 Old habits die hard. When such habits of a parent begin to adversely undermine the other parent to the detriment of a child, the court will take a serious view of the matter and will not hesitate to remedy the situation before it gets out of hand. In the present case, I made the decision to switch the care and control of two children to their father because I had concerns that their mother, subconsciously or otherwise, had continued to undermine the children's relationship with their father on an ongoing basis. This was despite both parents having gone through various court-ordered therapeutic interventions to acknowledge and specifically weed out such behaviour.

Background

The parties

2 The Plaintiff father (the “**Father**”) is a university graduate and is currently in his early 40s, under the employment of a reputable Wall Street bank in Singapore as an Executive Director. Having since remarried, he now lives with his wife and new-born twin daughters in a 4-storey terrace house located in the eastern part of Singapore. Also living in the house are the Father’s parents and his sister’s nuclear family.

3 The Defendant mother (the “**Mother**”) is currently in her late 30s and is educated at the upper secondary level. Like the Father, she has since remarried, albeit only recently. She is a homemaker, and her husband (“**BF**”) is a regular serviceman who is 13 years younger than her. Together, the Mother and BF live with her parents, her grandmother, her two children, and a domestic helper in a 3-room HDB flat in the central part of Singapore.

4 At the heart of this case are two male children born to the Father and the Mother during their marriage, hereinafter referred to as the “**Older Child**” and the “**Younger Child**” (collectively, the “**Children**”). They are now 12 and 10 years old respectively.

The divorce proceedings

5 The Father and the Mother (collectively, the “**Parties**”) got married in October 2006. In February 2017, the Father commenced divorce proceedings and Final Judgment was granted in May 2017. During the proceedings, the Parties had agreed to Interim Judgement being granted and, amongst other things, to have joint custody and shared care and control of the Children, with

the Father effectively having weekend access with the Children whilst they lived with the Mother on weekdays.

Post-divorce acrimony leading to the present application

6 Despite the Interim Judgment having been recorded on a consent basis, things did not quite pan out as peacefully as one could hope for. It was not disputed that in March 2019, the relationship between the Parties broke down completely, and along with that the Father’s relationship with the Children.

7 At this juncture, it is necessary for context to briefly set out the Parties’ differing views as to why they each thought this state of affairs had arisen. According to the Father, his relationship with the Mother and Children turned sour in March 2019 when the Mother abruptly began a campaign of alienation against him. The Father theorised that this happened because the Mother was angry with him for evicting her from their matrimonial home, even though he had out of goodwill allowed her to stay on for an additional 14 months, which went beyond the agreed terms of the Interim Judgment.

8 On the other hand, the Mother described the breakdown in the relationship between the Father and the Children as a gradual one, beginning in 2018 when she sensed the growing tension brewing from the times the Children were brought to stay with the Father and his family on weekends. These tensions cumulated in an incident on 10 March 2019, wherein the Father was alleged to have verbally insulted and hit the Older Child on his arm, which purportedly caused him to feel suicidal.

9 As a result of the above incident, the Mother made a police report and applied for a Personal Protection Order (“**PPO**”) on behalf of the Children against the Father and ceased to facilitate any further weekend access with him.

Her actions led the Father to believe that she made the said police report as an afterthought to justify not handing over the Children to him for the weekends. The Father then took out committal proceedings against the Mother for breaching the terms of the Interim Judgment.

10 Both the PPO and committal proceedings were eventually fixed for hearing in July 2019 before District Judge Darryl Soh, who provided a reality check to the Parties on the strength of their respective cases and stressed that they needed to work together for the best interests of the Children. The Parties then decided to withdraw their respective cases and recorded a consent order in FC/ORC XXXX/2019. Materially, the consent order provided that the Father's access to the Children should take place in the presence of a Child Psychiatrist or other suitably qualified person appointed by the Father every Saturday for at least eight weeks.

11 Pursuant to the consent order above, the Father appointed Dr. 'X', a senior consultant psychiatrist in private practice, to facilitate his access sessions with the Children. These sessions took place between July and September 2019. On 10 March 2020, Dr. 'X' produced a report setting out his observations of the access sessions and his opinions on the key issues and recommended treatment plan. I will return to this report below, but for now it suffices to highlight that Dr. 'X' found that parental alienation had taken place, and that aside from the Mother, the Father and Children had contributed to the access impasse. Should this continue, the Children will suffer several social and domestic repercussions going forward. Not surprisingly, immediate treatment was recommended by Dr. 'X'.

The present proceedings

12 In view of the factual developments since the Interim Judgment was granted, the Father took out the present summons on 27 August 2020 and urged me to give weight to the report by Dr. ‘X’ and the relevant parts of the Interim Judgment. Namely, to counteract the parental alienation which he had suffered, the Father prayed that care and control of the Children to be given to him, with supervised access to the Mother. He also sought a treatment order mandating the Mother and the Children to attend counselling or family therapy with a senior psychologist in private practice, Dr. ‘Y’ (as recommended by Dr. ‘X’).

13 The matter was then fixed for hearing before me, which was heard over a number of days, as summarised below:

Hearing Day	Date	Remarks
1	24 November 2020	At this point in time, the once-loving relationship between the Father and the Children had been fractured into an acrimonious one and it was for this reason that the Father took out the present proceedings. Having heard the Parties’ arguments and submissions, I called for a Custody Evaluation Report (“ CER ”) and directed parties to attend Divorce Support Specialist Agency (“ DSSA ”) counselling.
2	11 May 2021	A CER Report was prepared and placed before the court. To this end, I also heard further arguments from the Parties.
3	24 May 2021	Giving weight to the CER Report and facts of the case, I made an interim order which in essence granted the Father step-up access to the Children as follows:

		<p>a) DSSA supervised visitation every weekend for eight weeks;</p> <p>b) Thereafter, DSSA-conducted supervised exchange every Saturday for eight weeks; and</p> <p>c) Thereafter, unsupervised access every Saturday for eight weeks.</p>
4	13 December 2021	<p>As the Parties had completed the abovementioned sessions, a DSSA Supervised Exchange and Visitation Programme Report and a Counselling Report were prepared and placed before the court.</p> <p>Having noted the good progress made in the restoration of the Father-Children relationship and the recommendations of the said reports, I made a further interim order for the Father to have overnight access with the Children on Friday nights with immediate effect, considering that it was also the December school holiday period.</p>
5	24 February 2022	<p>Prior to this hearing, which was fixed for decision, the Parties filed further affidavits informing that the Father-Children relationship had taken a very sudden and severe turn for the worse, just two days after I had made the above interim order for overnight access.</p> <p>Surprised and puzzled by this turn of events, I invited the Parties to make further submissions and they did so.</p>
6	17 March 2022	I heard further arguments from the Parties.
7	7 April 2022	The hearing was adjourned as the court needed more time to consider the issues.

8	12 May 2022	I directed ¹ the Mother's counsel to inform the Director of Legal Aid that the Mother had re-married on 13 March 2022 as this may have affected her household income and by extension, eligibility for legal aid.
9	6 June 2022	I delivered my decision. Having considered all the facts, I put in place the necessary safeguards and ordered that, <i>inter alia</i> , care and control of the Children be switched to the Father. The matter of costs was reserved, pending further submissions by the Parties.

14 From the above, it can be seen that this had been one tumultuous emotional roller coaster of a ride for the Children, the Father, the Mother, and even BF, whose role in the entire affair could not be said to be an insignificant one. Placing the Children's best interests at the forefront of my considerations, it was in my view time to end this debacle and bring some order to the Children's lives and restore their relationship with their Father. On the facts before me, I found it necessary to switch care and control of the Children to the Father, with the caveat that the transition be a gradual one in accordance with Dr. 'Y's reunification plan which was placed before the court. I now give my reasons below for this decision.

Findings of fact

15 Given the factual complexities of this case, it would make sense to present my findings of fact as to what had occurred in four broad phases, which timeframes are set out as follows:

¹ And highlighted to counsel his duty under section 4(6) of the Legal Aid and Advice Act 1995

Phase	Timeframe	Remarks
1	Before March 2019	A loving Father and Children relationship. Save for some difficulties, this period was otherwise uneventful.
2	March 2019 to November 2020	The first acrimonious period in the Father's relationship with the Children.
3	November 2020 to December 2021	Therapeutic intervention and a period of healing in the Father's relationship with the Children.
4	December 2021 to present	The second acrimonious period in the Father's relationship with the Children.

Phase 1 (Before March 2019)

16 It was not disputed that from the time the Children were born until the time of the Parties' divorce in 2017, the Father had a good, loving, affectionate, and healthy relationship with the Children.

17 From 2017 to March 2019, the Father framed his relationship with the Children as a continuation of the earlier positive relationship which he has had with them. To this end, he highlighted the impact of how devastating it was for him to watch the Children cry and hug him after he broke the news of his divorce to them. Nonetheless, the Father vowed to do more of the activities which they enjoyed, and he kept to his word, citing no less than 10 occasions in 2018 during which he brought the Children for various outings around Singapore. In addition, the Father also took the Children on an overseas family trip with their cousins in March 2018 to visit their maternal grandmother's ancestral home. In December 2018, the Father again brought the Children for an overseas trip, this time with his newly-wed wife. The Father noted that the Children enjoyed both overseas trips immensely. The happy moments continued into March 2019, as

the Father continued to bring the Children for outings and even celebrated Chinese New Year together.

18 On the other hand, the Mother sought to dispel the warm, fuzzy picture painted by the Father on his closely-knitted relationship with the Children and the meaningful moments they shared. She highlighted that after the Children began staying over at the Father's house on weekends in 2018, they started to become unhappy with the Father over incidents such as the Father not picking up their phone calls, the Father compelling the Children to complete copious amounts of homework and assessments books during the weekends on pain of corporal punishment, and being treated unfairly because they were constantly compared academically to their cousin (the Father's niece) who was studying in the same primary school but unlike them, was achieving top grades in school. It was also claimed that the Father was harsh and critical of the Children, which induced feelings of inadequacy in them. In late October 2018, the Mother started to experience resistance from the Children when sending them to the Father's house for weekend access. In December 2018, after the second overseas trip with the Father, the Children also allegedly cited some unhappy incidents which happened during the trip to the Mother, suggesting that it was not an entirely joyful one.

19 In reply, the Father highlighted that the incidents cited by the Mother were based entirely on what the Children allegedly told her and were in any event untrue. In addition, the Father denied the allegations and asserted that the events mentioned by the Children were contrived by the Children and/or conjured by the Mother.

20 As with many cases, I believe the truth lies somewhere in-between. On a balance of probabilities, whilst the Mother's description of the Children's

negative feelings may be slightly exaggerated, I find that taking the Children as they are, being pre-adolescent and placed in an unfamiliar situation without the appropriate coping mechanisms, they did justifiably experience and perceive their weekends with the Father with a negative lens due to the latter's stricter parenting style, which contributed to their resistance in going for the weekend access sessions with the Father².

21 This sets the stage for my findings in relation to Phase 2 below, where it was common ground between the Parties that the Father's relationship with the Children devolved into an acrimonious one.

Phase 2 (March 2019 to November 2020)

22 As noted above, this phase marked the start of the sudden deterioration of the Father's relationship with the Children, which I note became one of hostility and anger.

Identifying when the Father's relationship with the Children deteriorated

23 The Mother identified the turning point as having occurred on 10 March 2019, when the Father got frustrated helping the Older Child with his homework, which led to the Father making derogatory remarks about the Mother. This apparently upset the Older Child and he kicked the Father, who in turn hit the Older Child on his arm in the presence of the Younger Child. The Older Child then ostensibly confided in the Mother saying he wanted to jump out of the window. Thereafter, the Mother claimed that the Children no longer wanted to see or stay with the Father despite her attempts to persuade them to

² See Custody Evaluation Report ("CER") at paragraphs [155] – [159]

do so. She followed up on the incident by making a police report on 15 March 2019 and commenced PPO proceedings against the Father shortly after.

24 Whilst the Father agreed that the deterioration in his relationship with the Children happened in March 2019, he averred that the Mother was the cause of this. He went to on allege that from March 2019, the Mother alienated the Children from him by (i) denying access, (ii) waging a campaign of vilification against him such that the Children were conditioned to feel anger and hatred towards him, and (iii) seeking to replace him with BF (who is now her new husband). As a result of these very serious allegations, the Father informed that his contact with the Children had become very limited.

25 It was therefore not disputed that the Father's relationship with the Children had turned acrimonious in March 2019. For reasons which I shall elaborate below, it is important that I make a finding of fact as to why this was so, as the answer to this question will have significant implications in my legal assessment of the Father's prayers.

Identifying the degree to which the Father's relationship with the Children had deteriorated

26 In making this assessment, I referred to the expert report of Dr. 'X', to which I give considerable weight on the strength of his stellar professional and medical credentials. Whilst the Mother alleged that the report of Dr. 'X' should not be relied upon if the Father had paid for the report, I find this submission to be calculated and mischievous as Dr. 'X' had already stated clearly that in performing his professional duty as a court-appointed Child Psychiatrist, he was fully aware that his responsibility was to assist the Court objectively and he had explained this to the Parties and obtained their agreement before taking on this case. In the absence of any evidence to the contrary, I accept that Dr. 'X' had

faithfully discharged his duty to the court as an independent expert. For the avoidance of doubt, I did not find that Dr. ‘X’'s examination of the Children was in contravention of Rule 35(1) of the Family Justice Rules as he was specifically appointed by the Father pursuant to an order of court in FC/ORC XXXX/2019 to counsel the Parties, which realistically could not have been done without first examining or assessing the Children.

27 Turning back to the report of Dr. ‘X’, I note that he had interviewed the Father and the Children separately in furtherance of his clinical examination of the matter. The Father stated³ that in May 2019, he attempted to visit the Children at the Mother’s house. However, they shouted at him, refused to talk with him, and told him to go away. When interviewed⁴, the Older Child was observed to be an intelligent child who was strongly allied with the Mother and rejecting towards the Father. For instance, he perceived the Father as “the bad guy” who lies and is mean because the Father “always makes me do a lot of homework”. In respect of the Younger Child, he mentioned⁵ that the Father meted out harsh discipline on him such as by using highly-charged expressed emotions and shouting, scolding, criticizing and physically hitting him and his brother.

28 Separately, Dr. ‘X’ also interviewed both Children together and the Older Child revealed⁶ that he did not like his Father and stepmother and that he began his dislike of the Father in kindergarten because the latter had at that time started to overload him with a lot of assessment books to go through.

³ See paragraph [21] of the report by Dr. ‘X’

⁴ See paragraphs [40], [41], and [51] of the report by Dr. ‘X’

⁵ See paragraph [36] of the report by Dr. ‘X’

⁶ See paragraphs [58] and [59] of the report by Dr. ‘X’

29 After having completed the interviews and examinations above, Dr. ‘X’ arranged for the Father to have access with the Children on 7 September 2019 as part of his clinical assessment. However, that did not go smoothly at all. Dr. ‘X’ observed⁷ that upon being dropped off at his clinic by the Mother, the Children were in an unpleasant, disagreeable, and offensive mood. Not only did they not want to have access with the Father, but the Children also started shouting angrily at him and told him to go away. They repeatedly yelled at him: “I hate you”. They told him they did not want to talk to him. When the Father pleaded with the Children to leave with him, the Older Child grew angrier and more annoyed and agitated. He then became physically violent and started to hit and kick the Father in anger. The Father responded by fending off the hits and holding the Older Child down. The Younger Child then attempted to run away and made a dash for the clinic door and ran for the lift foyer. The Older Child broke free and both Children evaded the adults trying to stop them and they ran along the corridor towards the stairs. This ruckus had caused staff members from other clinics to step forward and offer help. Eventually, the police were called, and two police officers stayed at the scene for roughly an hour until the Mother came to pick the Children up.

30 Based on the foregoing, it is safe to conclude that by late 2019, the Children’s relationship with the Father had deteriorated into an appalling and abysmal state.

Identifying why the Father’s relationship with the Children deteriorated

31 The Father relied on a number of incidents to substantiate his assertion that his relationship with the Children had deteriorated arising from the

⁷ See paragraphs [75] to [77] of the report by Dr. ‘X’

Mother's actions. Some pertinent allegations by the Father are set out below to provide a snapshot of his case:

- (a) Together with BF, there was a pattern of the Mother and BF denying the Father access to the Children, as he only got to see them for a handful of times from March 2019 to July 2020;
- (b) On occasions when the Father showed up at the Mother's house to see the Children, the Mother called the police on him, or her family members would refuse to open the door;
- (c) The Mother's BF hindered the Father's attempts to visit the Children. On one occasion when the Father sought to visit, BF told the Father to "continue to beg the Children" to open the door;
- (d) On another occasion when the Father visited the Children at the Mother's house, she told the Children to say that they did not want to see him. The Father felt that the Mother was manipulating the Children's alienation from him;
- (e) The Mother had shown court documents to the Children in an attempt to vilify the Father;
- (f) The Mother telling the Children to call the Father by his initials, instead of addressing him as 'papa';
- (g) The Mother calling the Father a monster in front of the Children;
- (h) The Mother seeking to replace the Father as a father figure in the Children's lives, such as influencing the Children to call BF 'papa' instead; and

(i) The Mother excluded the Father from all information from the Children's school, and instead registered BF as a parent of the Children on an Application used by teachers to communicate with parents.

32 On the other hand, the Mother categorically denied that she and BF were the cause of the breakdown in the relationship between the Father and the Children. The Mother also denied having alienated the Children from the Father. She averred that it was the Father who had through his own actions hurt the Children and caused them to lose their trust and confidence in him, and the right approach was for him to find ways to regain the Children's trust instead of pushing blame on her. She explained that the reason the Children were acting repulsively against the Father was due to the constant negative words that he had been using against her.

33 In response to the specific allegations raised by the Father, the Mother replied that in relation to the unsuccessful attempts by the Father to see the Children, it was because the Children themselves refused to meet him, and she categorised his multiple attempts to see them as harassment. She claimed she never stopped him from seeing the Children and that it was always the Children shutting the door on him. The Mother also stated that the Father's actions were motivated by a desire to build a case against her instead of genuinely seeking access to the Children.

34 As regards the Children addressing BF as 'papa' and calling the Father by his initials, the Mother explained that she never initiated this and the children had been calling BF 'papa' on their own initiative, albeit to her initial shock. However, she justified that since the Children themselves desired to call BF 'papa' and she was in a serious relationship with him anyway, she did not put a stop to this practice. In relation to the Children calling the Father by his initials,

the Mother recognised this, and informed them that they should refrain from doing so. However, the Children had demonstrated an unwillingness to do so, and the Mother was of the view that the proper way to remedy such behaviour was to have the Father attend counselling sessions.

35 In respect of the Children having seen court documents pertaining to the ongoing proceedings between the Parties, the Mother denied that she showed these documents to the Children deliberately, and that the Older Child had stumbled onto the soft copies of the said documents on his own whilst he was playing with the Mother's handphone.

36 Finally, in respect of BF being listed as a parent of the Children on the school application, the Mother attributed the incident as one of a matter of convenience for the school, and that the school in any event understood that BF is not the biological parent of the Children.

37 Having carefully considered the Mother's behaviour in totality and scrutinising her explanations above, it appears that she had not taken any ownership of the issues which were clearly plaguing the Children's relationship with the Father. Instead, she adopted a very *laissez faire* and nonchalant attitude towards these problems, despite paying lip service to her commitment towards co-parenting. That said, this is not a fault finding exercise. Merely having a lax and permissive parenting style by itself does not mean that the Mother is an inadequate parent, for there is no perfect one-size-fits-all parenting method out there. However, I find that the Mother by her actions and omissions had hindered the Father's access and her nonchalant and permissive attitude towards

the Children's behaviours did contribute materially to the deterioration of the Children's relationship with the Father⁸.

38 My finding above is also corroborated by the expert report of Dr. 'X' dated 10 March 2020, to which I now turn. Dr. 'X' was of the opinion⁹ that parental alienation had taken place as the Mother had been subtly hinting to, and encouraging the Children not to have access with the Father¹⁰. The degree of alienation was assessed to be very severe, with a lot of damage having already been done to the Father-Children relationship. Dr. 'X' warned against long term repercussions for the Children should the alienation persist, citing a litany of social and emotional problems they may face as they enter adulthood. Amongst other things, Dr. 'X' also recommended that the court should take immediate action and order the Parties and the Children to undergo treatment and counselling.

39 Dr. 'X's' opinion that parental alienation had taken place is also connected to his view¹¹ that as long as the Mother did not interfere with the Children's access with the Father, they would not be so hateful and rejecting towards the Father. If that could be done, the Children's relationship with the Father would improve and become more trusting and closer with each other. Meanwhile, Dr. 'X' also observed¹² that the Mother was an emotionally fragile person and had difficulty in expressing her thoughts and feelings. Under stress, she became hysterical, which Dr. 'X' diagnosed as a transient mental break-

⁸ See also paragraphs [149] to [154] of the CER

⁹ See paragraphs [79] to [82] and [92] of the report by Dr. 'X'

¹⁰ See paragraph [41] of the report by Dr. 'X'

¹¹ See paragraph [87] of the report by Dr. 'X'

¹² See paragraph [89] of the report by Dr. 'X'

down. The basis for this observation stemmed from an incident on 27 July 2019, when the Mother showed up at the clinic of Dr. ‘X’, who described in his report the details of what happened next:

[26] The answer to my worries came on 27 July 2019, when [the Mother] turned up at my clinic with her two children and her boyfriend. She also brought an entourage along (her sister, her sister’s helper, and her niece). [The Father] was present as well. **Soon after I started to interview her at around 9.35 am, [the Mother] suddenly screamed and cried for no apparent reason! All the people who were waiting outside in the waiting area rushed in to find out what was happening. Significantly, [BF], [the Mother]’s boyfriend, ran into my office and started videoing the scene with his handphone instead of consoling and comforting [the Mother] and her two children. [The Mother] then hugged her two children tightly and kept on sobbing while facing her boyfriend’s handphone as he videoed her. The two children were greatly shocked and scared by their mother’s behavior. They too started crying and hugged their mother tightly.** I remained calm throughout the entire event and did not provoke her in any sense. Under these circumstances, the session had to be discontinued. [The Mother] and the two children subsequently calmed down and left the clinic with [the Older Child] promising to come back to see me later on the same day.

[Emphasis added in bold]

40 Given the bizarre behaviour of the Mother at Dr. ‘X’’s clinic, the latter was understandably unable to complete a mental state examination of the Mother. In view of this, I had no reason to impugn the factual basis of Dr. ‘X’’s opinion given what had transpired right before him. For completeness, the Mother did not dispute Dr. ‘X’’s account of the events in her affidavit, save as to explain that she acted the way she did because she was feeling extremely uncomfortable at being questioned in an interrogating manner by Dr. ‘X’, as she did not understand why there was a need to interview her when “it is the [Father] that requires counselling”.

41 As evidence of the above had been placed before me by the time of the hearing on 24 November 2020, I concluded that:

- (a) The Mother lacked insight as to her own parental shortcomings and that at the minimum, she had been subconsciously alienating the Children from the Father;
- (b) The Mother was in denial that she had contributed to the access impasse¹³ and that contrary to what she thought, the Mother would actually benefit from therapy and counselling; and
- (c) Dr. 'X' was correct to highlight that immediate and critical therapeutic intervention was needed given that the parental alienation had gone on for a long time and had become very severe.

42 Recognising the need for court intervention at this juncture, I therefore called for a CER and ordered that interim DSSA supervised access be given to the Father, and thereafter for DSSA to provide a report to court. Considered together, these reports would be very useful for the court to have the accounts of objective third parties as to the interactions of the Parties and the Children, as well the professional recommendations of family specialists who could make the relevant recommendations on the proposed next steps having done a deep dive into the family's situation and dynamics from a multi-disciplinary angle.

Phase 3 (November 2020 to December 2021)

43 After I ordered the abovementioned reports, the case moved into Phase 3. Based on the promising events which transpired during this period of time, this phase highlighted the potential of what could be achieved if the Parties worked together to co-parent and promote the best interests of the Children.

¹³ See paragraph [80] of the report by Dr. 'X'

Sadly, whatever progress the Parties made during this time came crashing down and they were back to square one by the time the year ended in 2021.

44 During the year, I received two sets of reports (each set comprising a CER and a DSSA report) in 2021, with the first set received in March and the second set received in December. Collectively, they painted an upward trajectory in terms of the progress made by the parties.

Progress made by the Parties by March 2021

45 To recap, I had called for a CER and DSSA report in November 2020, and by March 2021 these reports were ready. I note that when the supervised visits began in January 2021, the Children overtly displayed their hostilities towards the Father, such as facing their backs towards him during the visits. This was consistent with their behaviour on 7 September 2019, when they had caused a ruckus at Dr. ‘X’'s clinic during the access session with the Father. However, with the dedication and efforts of the DSSA staff over the course of eight sessions of supervised visitations from January to March 2021, notable progress was made as the Children over time became less guarded and grew more receptive towards the Father during the access sessions.

46 Encouraged as I was by the progress made, I did not feel at that time that it was appropriate to make a final order in this case¹⁴. More could be done, as there was additional room for therapeutic interventions to take place. Therefore, on 24 May 2021, I made interim orders for step-up access to be given to the Father, with a further eight weeks of DSSA supervised access, followed by eight weeks of DSSA supervised exchange, and then another eight weeks of unsupervised access for the Father. Additionally, I also ordered the Parties, BF,

¹⁴ See CER dated 4 March 2021 and DSSA report dated 16 March 2021

and the Children to attend therapy and counselling sessions with DSSA. Thereafter, DSSA was directed to submit a counselling report to the court.

Progress made by the Parties by December 2021

47 In December 2021, the court received a further two reports from DSSA¹⁵, one prepared for the purpose of updating the court on the progress of the supervised access and exchange sessions, and another to update the court on the counselling and progress made by the Parties.

48 By this time, having undergone therapeutic interventions over the course more than one year, I note that significant progress had been made by the Parties in the area of co-parenting and in the restoration of the Father-Children relationship. Beyond merely being more receptive towards the Father, the Children were now able to engage him well¹⁶ and even appeared to be comfortable around him. The Children, especially the Older Child, also no longer addressed the Father by his initials. Various observations were made which led me to believe that I could step up the access even more¹⁷, and in the absence of any red flags, I ordered on 13 December 2021 that the Father was to begin overnight access with the Children starting from the coming weekend, in view that the Children were then having their December school holidays.

49 This brings to an end Phase 3 of the case, where upon my order for overnight access to begin, dark clouds had started to gather over the Parties and the Children yet again.

¹⁵ See DSSA (SV/SE) report dated 1 December 2021 and DSSA (counselling) report dated 8 December 2021

¹⁶ See page 59 of the Father's affidavit filed on 21 February 2022

¹⁷ See page 7 of DSSA (SV/SE) report dated 1 December 2021

Phase 4 (December 2021 to present)

50 Almost immediately, after I had made the abovementioned order, the Father's relationship with the Children inexplicably took a dive for the worse. A number of incidents confirm this, and I set out my findings on these below.

Messages sent by the Older Child to the Father

51 A prime example of the utter collapse in the Father-Children relationship can best viewed through the lens of a series of messages which the Older Child sent to the Father beginning just one day after I made the said order. I reproduce *verbatim* a snapshot of some of these messages below:

Date	Messages
14 December 2021	<i>I hate you</i> <i>I hate going to ur stupid house</i> <i>U are not my father</i> <i>Papa is</i> <i>Ur dauggters arent my sisters</i> [reference made to Father's house] is not my house
28 January 2022	<i>Until u listen to me i will not go with u</i> <i>U come down i slice ur head of</i> <i>I hate u</i> <i>No matter wat u say i will and always will hate u</i> <i>Any way u come tdy</i> <i>I will kill u</i> <i>U come tmr i also kill u</i> <i>U shld prepare ur funeral</i> <i>I think u shld do it like ur mothers</i> <i>A happy ome</i>

	<p><i>One*</i></p> <p><i>Bcause everybody will be rejoicing</i></p> <p><i>Ohhhh wen ur father die i will rejoice</i></p> <p><i>Hahah</i></p> <p><i>[the Father]: i suggest u re-read your messages and think if this is what u are proud to say or not</i></p> <p><i>Re read it</i></p> <p><i>Im proud</i></p> <p><i>Im a miracle unlike u</i></p> <p><i>U tradgedy</i></p> <p><i>A century ago wen u were born people cried at the sight of u</i></p> <p><i>As it look like the mountain babyfied</i></p> <p><i>Troll</i></p> <p><i>Mountain troll*</i></p> <p><i>[the Father]: lol. u do have a pretty good vocabulary</i></p>
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52 For a 12-year-old boy to be sending these messages to his father with whom he once had a good relationship is appalling and on a deeper level, very disappointing. The Mother was aware of these messages. Whilst she acknowledged that the Older Child's messages may be out of proportion, she nonetheless justified his actions by explaining that he behaved this way due to the sudden change in the access orders which was a step too wide, and because the Father lied to the Older Child. There was no evidence put forth by the Mother that she had chided or corrected the Older Child for sending such disdainful messages to the Father despite her awareness of these messages.

53 Unfortunately, this was not the only example of the Children's hostility towards the Father. I now turn to other incidents below.

The Children's behaviour at the Father's house during their first overnight access session

54 After more than two and a half years of not having any overnight access with the Children since March 2019, the Father finally got to have overnight access with the Children on 17 and 18 December 2021 (Friday – Saturday). It was an eventful session to say the least.

55 After arriving at the Father's house, the Children committed a series of dysfunctional and disruptive acts throughout the night, which included:

- (a) Making loud noises through the night;
- (b) Moving large boxes of diapers and wet wipes to block the interconnecting staircase;
- (c) Spraying a can of rubber seal leak filler all over the house;
- (d) Throwing eggs on the floor, which attracted many ants; and
- (e) Deliberately taking items from the fridge and other items around the house such as laptops, computer keyboards, washing liquids and work keys and hiding them everywhere.

56 The Father exhibited some photographs of the mayhem caused by the Children, which I reproduce below:



57 The Father could not understand the reason behind the Children's disruptive behaviour, as they had spent eight sessions at his house during the supervised exchange conducted by DSSA and there were no such behavioural problems then.

58 In response, the Mother blamed the Father for being negligent in leaving the spray can in the Children's room without supervising them. In relation to the eggs, the Mother was aware that the Children had left some broken eggs underneath a couch in their grandfather's room. However, she classified it as a

mere “prank”. There was no evidence that beyond blaming the Father, the Mother had taken any remedial actions on the Children for their behaviour that night. Curiously, the Mother also went on to explain that the Children did not steal items from the Father’s house. However, it was never the Father’s evidence that they had done so.

The Children running away before access sessions with the Father

59 This happened on numerous occasions, each time before the Father was due to begin his access session with the Children. The common thread in all these incidents was that the Mother allowed the Children to meet the Father on their own in her absence, as she did not accompany the Children nor personally hand them over to the Father on each of the following occasions.

60 The first occasion happened on 15 December 2021, when the Father arrived at the Mother’s void deck and waited for the Children. They came down alone and shouted “*Oi!*” at the Father from a distance. When the Father waved at them, they ran away, and the Father had to chase after them and persuade them to begin their access session.

61 The second incident happened on 17 December 2021, when the Father arrived at the Mother’s block punctually to pick the Children in the evening. The Mother did not send the Children down and they made their own way down the block. Upon seeing the Father, the Children shouted “*Aiyoh!*” and ran off. The Father again had to give chase and persuade them to leave with him to leave with him for access.

62 The third incident occurred on 22 December 2021. On this day, the Father arrived at the Mother’s block to pick the Children. However, after they came down on their own and saw the Father, they chanted “*we are not going*

with you". Thereafter, the Children ran up the staircase out of the Father's sight. The Father had to resort to combing various floors of the block to find the Children. He eventually found them in the Mother's home. When he sought the Mother's assistance with the handover, she replied goadingly: "*Good, persuade dem like how you normally did to go with you...*"

63 The fourth occasion happened on 25 December 2021. Despite the Father arriving on time, the Mother suggested that access should commence 30 minutes later as the Children were having a late lunch. The Father agreed. Eventually, the Children came down unsupervised and upon seeing the Father, they ran off. However, the Father was unable to catch up with them and lost sight of them. He texted the Mother for assistance, and she replied instead asking whether he talked to the Children. Ten minutes later, only after the Father said he was going to her flat did the Mother inform him that the Children were back at home.

64 The fifth occasion happened on 5 January 2022. The Father arrived at the Mother's void deck and noted that the Children came down on their own. Upon seeing the Father, they ran away from him, and the Father had to spend 15 minutes coaxing them into leaving with him for the access session.

65 The sixth incident occurred on 12 January 2022. Again, the Father arrived at the Mother's void deck and noted that the Children came down on their own. This time, they proceeded to run around in separate directions and the Father found it difficult to get a hold of them. It was only after 20 minutes that the Father managed to persuade the Children to leave with him for dinner.

66 The seventh incident happened on 14 January 2022. On this occasion, the Father went to pick the Children from the Mother's void deck. Yet again, they came down alone. This time, the Father struggled to get the Children to

leave with him as they ran all over the estate to hide from him. Eventually, he managed to persuade the Children to leave for East Coast Park with him.

67 The eighth incident happened on 2 February 2022. Upon arriving at the Mother's void deck, the Father noted that the Children were once again, left unsupervised as they came down on their own. They kept running away from the Father and he managed to catch up with the Younger Child. The Children eventually went to a nearby playground and uttered profanities at the Father and refused to carry on the access session, until the Father bought them some ice cream from a nearby convenience store.

68 Factually, the Mother was unable to rebut the Father's recollection of the above events as she was not present to hand the Children over to him. In her response however, the Mother denied that she was the party creating issues or troubles. Whilst she claimed to be cooperating in facilitating the Father's access, she stated the following in her affidavit:

“there is only so much I can do. I have ensured the children left the home for the access. However, if the children in the presence and care of the Plaintiff chose to run away, I do not [know] why I am faulted as well”.

...

“Should the children still be unwilling to go for access after they have been handed over to the Plaintiff, the responsibility to persuade the children is on the Plaintiff. It is important to note that if handover was not done, how can he be spending time with the children at the void deck?”

...

“I also wish to point out the if the children came running back after I sent them off for the access. Surely I cannot deny the children entry to the house? This will only worsen the matter/situation as the children may proceeded to run to elsewhere.”

69 Without the Mother’s supervision and assistance in personally facilitating a smooth handover to the Father, it appeared that the Children felt emboldened to pursue an outcome where they did not have to spend time with the Father. This manifested in them running away upon seeing the Father on the occasions cited above. The Mother’s deliberately lax attitude and hands-off approach is very telling. She simply did not care if the access sessions were well facilitated and instead left the Father to handle the Children and deal with their adolescent whims on his own. This is not what co-parenting looks like, especially since the Mother must have become aware of the Children’s behaviour of running away by the third or fourth time it happened.

70 From her failure to personally facilitate access during these incidents, I find that the Mother had failed to take any ownership of her responsibilities as a co-parent, which I stressed to her counsel during Phase 3 of the proceedings. Specifically, I had stated that the Mother should take positive steps to help the Children recognise their father and encourage them to interact positively¹⁸. Unfortunately, this was not heeded by the Mother.

The Children ran away from the Father during an access session

71 On 26 January 2022, the Father took the Children to United Square for dinner. After the meal, the Older Child felt unwell and wanted to go home. Thereafter, both Children took the opportunity to visit the toilet and told the

¹⁸ NE, Day 3, Page 42, Lines 15-17

Father that there was no need to accompany them. After about 20 minutes, the Children did not reappear, and the Father sent a text message to the Older Child to ask why they were taking so long. In reply, the Older Child said that they were going home. The Father frantically sent a number of messages to the Older Child but did not get much of a reply. The Father then searched the mall and finally at 7.18 pm got through to BF, who was then with the Mother. They confirmed that the Children were not with them.

72 The Father then went to the Mother's house to look for the Children. However, their maternal grandfather told the Father that they were not home. In desperation, the Father went to a nearby police station to seek help. The police officers called the Mother at 7.36 pm, and it transpired that by then, she had already picked the Children together with BF. At 7.48 pm, they arrived at the police station and BF shouted at the Father: "*why did you involve the police!*" and "*what are you trying to do?!*". The Mother also said that the Father should "*apologise*" to the Older Child for making him run away.

73 The Mother explained that on that day, after she was informed by the Father of the Children's disappearance during access, she called the Children and found out that they had run away from United Square and were hiding at Velocity mall. She then went to pick the Children from Velocity mall and upon fetching them, she received a call from the Police informing that the Father made a report for missing persons. It was at that point she headed to the police station. In response to the Father's version of events, the Mother did not deny that it happened as he described. Instead, the Mother claimed that instead of looking for the Children, the Father was more interested to make a police report against her and absolve himself of any responsibility. She also stated that BF did not berate the Father, and that he "*merely asked in a harsher tone why the*

[Father] had to involve the Police and set in motion unnecessary processes, when the [Father] could have just waited for an update” from her.

74 The Mother’s reply is troubling for a few reasons. First, the Mother was well aware that the Children had run away from United Square to Velocity mall after she spoke to the Children. However, she did not pass on this information to the Father as soon as possible. Instead, she kept him in the dark for the entire duration whilst she and BF drove to Velocity mall to pick the Children. Second, the Mother seemed to be downplaying and making excuses for BF’s behaviour at the police station by claiming that he was merely using a harsher tone towards the Father. Considering that the Mother did not dispute the words used by BF, I find that his choice of words, together with a harsh tone, amounted in the circumstances to berating the Father, all that in the presence of the Children. Third, the Mother faulted the Father for making a police report and alleged it was to absolve himself of any responsibility when he could have merely waited for updates from her. I find this to be preposterous. The Mother herself had chosen not to update the Father on the Children’s whereabouts in Velocity mall, resulting in the Father spending precious time looking for them at United Square. By further accusing the Father of making the police report to absolve himself of any responsibility, the Mother was clearly casting aspersions on his actions without basis, as the evidence clearly showed that the Father’s intention in going to the police was to seek help in uncovering the Children’s whereabouts and checking on their safety, which the Mother had undermined by not providing a timely update to the Father (who was closest on the scene) when she discovered that the Children had run off from United Square to a different location (Velocity mall).

The Children unilaterally proposing new access terms to the Father

75 During the access session on 24 December 2021, the Father arrived at the Mother’s void deck to pick the Children for access. He was taken aback when the Children then showed up and told the Father that they wished to discuss new “*access terms*” with him. To this end, the Children had brought with them a document which contained access terms different from the one I ordered on 13 December 2021, and handed this to the Father. Specifically, the new terms removed the overnight access component and reduced the Wednesday access to dinner only. The Children threatened that if the Father did not sign on the document, they would not go for access with him.

76 The Father tried to explain that the issue of access was a matter for grownups and the court order was made after input from both sets of lawyers were obtained. The Father then declined to sign the document. This angered the Older Child, who proceeded to get extremely angry and crumpled up the document and threw it away. The Children eventually ran back to the Mother’s residence, and the Father followed them into the house. By then, the Children had locked themselves in their bedroom. Instead of getting the Children to open the door, or to open it herself, the Mother said to the Father:

“... to the extent that you’re here at our own place, when it’s supposed to be your responsibility, now it seems that like, I have to assist you.”

...

“Ah then you go la, you can go and try to talk to them la. I wish you the best good luck.”

77 When it became clear to the Father that his access with the Children were not happening that day, the Father left. The next day was Christmas Day, and the Father returned for his access session. A number of other things happened in the house, but most pertinently, the Father revealed that the Mother and BF (albeit not in the presence of the Children) had applied pressure on him to accept the new terms drafted by the Children. The Father alleged that the Mother had threatened that future access would not happen if he did not agree to the new terms. Feeling helpless, as he might otherwise be deprived of access in future, the Father verbally agreed to a shorter weekday access session and the removal of overnight access on weekends, in accordance with what the Children wanted.

78 At this stage, two pertinent questions arose. First, was the Mother aware that the Children had drafted their own access terms prior to meeting the Father on 24 December 2021? Second, if she knew, did the Mother encourage or permit the Children to unilaterally re-negotiate the terms of the court order concerning access?

79 The Mother explained that before the Children had access with the Father on 24 December 2021, she had out of desperation told the Children that they could write down their frustrations for the Father on paper if they were unable to verbalise them. It was only after the access session on 24 December 2021 that the Children told the Mother they had presented their preferences to the Father for access timings that were effectively reduced in duration from that of the court order. However, they were ‘*triggered*’ when the Father used his pen to strike off what the Children had written.

80 I find that the Mother had started the ball rolling by asking the Children to write their frustrations down for the Father. However, it was not clear if she

had read or vetted the document before permitting the Children to show it to the Father. Whilst there were a number of possibilities, none of them bode well for the Mother. First, if she had read the document and nonetheless permitted the Children to negotiate access timings, then she had fallen far short of the parental standards expected of her. Namely, not to expose the Children to litigation, or as the Father puts it, a matter for the grownups. Alternatively, if she knew that the Children had prepared the document but chose not to review it before allowing the Children to show it to the Father, such wilful blindness amounts to actual knowledge, and she will be equally blameworthy for the consequences which follow.

81 For completeness, the Mother denied that she and BF had pressured the Father into accepting the Children's new terms. She claimed that no new terms were agreed on. The Mother also denied threatening that future access would not happen should the new terms not be agreed to. On a balance of probabilities, benefit of doubt can be given to the Mother on these points, as transcripts of an audio recording made on 25 December 2021 do not disclose the Mother saying words to this effect.

The Children refused to share details of their school award ceremony with the Father

82 During an access session on 16 February 2022, the Children disclosed to the Father that the Older Child was to receive a "top 10% award" and the Younger Child was to receive a "most improved award" in a school ceremony. However, the Children did not want to provide him with more information. Naturally, the Father texted the Mother, but was met with this in response:

“Of cos I have the details and the children do to... If they didn’t share the details with you then im concerned as to why not and I would have to speak to them first...”

83 In the end, the Father could not attend the Children’s prize award ceremony as the Mother did not share details of the ceremony with the Father. The Mother explained that she decided not to invite him to attend the ceremony because the “[C]hildren would certainly be disengaged” if she had done so. In failing to invite the Father, or at the very least providing him with information on the ceremony, the Mother had effectively cut the Father out of a very important moment in any parent’s life, that is, to see their child[ren] on stage to receive an award. Such behaviours cannot be overlooked simply because the Mother did not want the Children to be disengaged. As a co-parent, it is the Mother’s duty to involve the Father in major events in the Children’s life. I find that the Mother had made a serious error in judgment in conscientiously excluding the Father from an event celebrating the Children’s academic success in school.

The Mother did not permit the Father to visit the Older Child in Hospital

84 On 25 January 2022, the school informed the Father that the Older Child had an accident in school and the Mother had brought him home. The Father texted the Mother for more information, and the Mother replied half an hour later stating the Older Child was in hospital, and that he was ‘fine’. Feeling concerned, the Father went to the hospital. Despite having texted the Mother to ask to see the Older Child in the A&E section by way of a parent swap, the Father was left waiting for more than an hour without reply. For context, it appeared at that time that only one accompanying parent was allowed to accompany the Older Child, presumably due to the Covid-19 rules then in force.

Thereafter, the Mother and the Older Child walked past the Father at the A&E area. However, he did not manage to speak with the Older Child as the Mother took the latter away and informed the Father to stay at the waiting area whilst she went to pay the bill. The Mother and the Older Child never returned.

85 The Mother explained that she was driving, hence her late reply to the Father. At the hospital, whilst she had brought the Older Child to see the Father, the Older Child insisted on leaving. When she went to the pharmacy to collect medication, she allowed the Older Child to follow her instead of instead of staying with the Father.

86 I find the Mother's explanation to be lacking. For instance, she did not respond to the allegation that she refused to let the Father see the Older Child. She also did not respond to the allegation that she refused to allow the Father to replace her momentarily as the accompanying parent whilst the Older Child was awaiting treatment inside the hospital A&E. Therefore, I accept the Father's version of events and find that the Mother had failed to co-parent effectively by keeping the Father out of the loop on the Older Child's injury, which at first glance seemed serious as it involved him knocking his head against a wall. In other words, the Father had specially gone all the way down to the Hospital to check on his son's injury and medical condition, only to be stonewalled by the Mother.

The Mother refused to give the Younger Child's handphone number to the Father on multiple occasions

87 On 25 December 2021, the Father showed up at the Mother's house for an access session with the Children. This was one of the occasions when the Children ran off upon seeing the Father. After that happened, the Father asked

the Mother for the Younger Child's handphone number so that he could call him. His request was refused. This was not denied by the Mother.

88 On 13 January 2022, the Father again asked the Mother for the Younger Child's handphone number so as to facilitate arrangements for an upcoming access session. In response, the Mother replied with a number of long text messages, an extract of which is produced below:

“Have you tried asking [Younger Child] for his phone during your time out with them? If you have not, I suggest you make a few more attempts. If yes, pls share with me in detail how you tried to engage him in the first place...

...

This is also not the first time you had asked me, and not the first time I had told you to ask [Younger Child] instead... Well, I believe the concern here is the kind of relationship you would like to build with them. Is it one whereby they trust you and therefore they share with you? Or is one whereby they share with you simply because they were asked to or worse, forced to. I hope it is the former, at least for me it is. Thus to me engaging them, persuading them and getting their consent.... Is important even for very small issues such as giving out their phone numbers...”

89 In the end, the Mother's tirade over text messages were ultimately non-facilitative as she did not provide the Younger Child's handphone number to the Father. Instead, she stressed that the onus was on the Father himself to obtain the Younger Child's handphone number from him.

90 This information asymmetry continued into 2 February 2022. On this day, the Children ran away upon seeing the Father during one of his access sessions. As the Father did not have the Younger Child’s handphone number and did not want to lose him, he chased after the Younger Child instead of the Older Child. The Mother did not respond to this despite having the opportunity to do so.

91 I therefore find that over the course of three months, the Father had made all reasonable attempts to obtain the Younger Child’s handphone number from the Mother so as to facilitate his access sessions and keep in touch with the Children. Unfortunately, the Mother had plainly refused to cooperate on this front without any good reasons. Effectively, her ongoing omission to facilitate the opening of a direct line of communication between the Father and Younger Child has contributed to an isolating impact on their relationship.

The Mother refused to engage the Father in co-parenting the Older Child

92 To recap, the Children had run away during an access session with the Father at United Square on 26 January 2022. Two days later, the Father texted the Mother to discuss the most suitable care arrangements for the Older Child, who seemed to be feeling emotional at that time. The Father also suggested that the four of them, both parents and the Children, should meet for dinner or lunch as a “*quasi family*” to show to the Children that they could talk cordially. In my view, this seemed to be a very reasonable request made by a father whose children were frequently running away from him and who were in fact disproportionately aligned with their mother.

93 In response, the Mother never took up the Father’s offer of having a meal together to create a united front. This is unfortunate, as doing so could have otherwise opened the doors towards uncovering the deep-seated issues and

working through them as co-parents and children, leading to healing. A golden opportunity was lost because the Mother's attitude towards the Children's disdain for the Father remained unchanged, namely, that it was a problem for the Father to solve alone and that it was none of her business. Her replies to the Father confirmed as much, and I reproduce the relevant extracts below:

"...They (the Children) do not need to be confused with this "quasi family" or in my view, the false impression of a single harmonious entity you are suggesting to paint here..."

"... you should respect the fact that your suggestion to have dinner at my place is intruding on me and my parents privacy. I must highlight again that we are divorced and my family has no obligation towards or need to welcome you. The only responsibility we have is to give our best effort to facilitate your access with children..."

"... As I have already told you on Wednesday that you can simply try to apologise to [the Older Child]. That will provide some closure and address this agitated emotions... Have you done so – apologising to [the Older Child] sincerely?"

"It seems that you have an incessant habit of demanding for my presence... If you cannot stop relying on my assistance to be a father or build a bond with them, maybe its an issue that you personally need to seek professional help and not your exspouse help..."

"Whatever you plan to do with the children, just go ahead. But please keep the line of responsibility drawn clearly. When its your issue with

the children, you will have to resolve it with them personally, and not keep expecting me to do it for you...”

94 From the above replies, it is clear that the Mother had conveniently ignored the nub of the Father’s plea, that was to solve the issue of the Children’s acrimony towards him together by having a meal with them. Instead, she focused her replies on the label used by the Father (i.e., “*quasi family*”) and the venue of the proposed meal. More evidently, her suggestion to the Father that he simply apologises to the Older Child smacks of a personal unwillingness to positively improve the Father’s relationship with the Older Child when as a co-parent, that is precisely what is expected of her. Her suggestion that the Father seeks only professional help to build a bond with the Children, instead of relying on her assistance, further confirmed my finding that as far as she is concerned, the Mother has drawn the line and viewed her role as limited one. That is, to give the Father access to the Children, and nothing more. This is contrary to what is expected of a co-parent.

The Mother and BF had undermined the Father in the presence of the Children on multiple occasions

95 In addition to the relevant examples I have set out above, three other incidents bear highlighting. The first happened on 25 December 2021. To recap, the Father had gone to the Mother’s void deck for an access session. This was just one day after the Children themselves had unsuccessfully proposed new access terms for the Father to agree to, as alluded to above. Upon seeing the Father, the Children ran away, and the Father lost sight of them after a short chase. Thereafter, the Father texted the Mother and she subsequently revealed that the Children were inside her house, resulting in the Father going up the block and entering the unit. The Mother then called the Children out of their bedroom and with BF also present, chaos ensued in the living room.

96 In front of the Children, the Mother castigated the Father and yelled the following at him:

“Do you forever need someone to facilitate, do you need somebody to help you to be a father? To reconcile with the boys? Seriously! Is that what you need?”

97 At this point, BF also chimed in. He added that:

“...[the Children] put in more than one hour of work to draft out that piece of paper. You took a pen and struck it off. That action itself was very- they felt very disrespected. And they felt that you vandalized their work. Okay?...”

98 As a result of the actions of the Mother and BF taking place in full view of the Children, the Father felt humiliated, and understandably so. It seemed to him that the Mother and BF had acted in a calculated manner in order to undermine him and reinforce the Children’s view that the Father is a bad parent.

99 The second incident happened on 29 January 2022. On that day, the Father’s access session with the Children did not start off well. Upon seeing the Father, the Children were rude to him and refused to go off with him. Eventually, the Father and Children went up to the Mother’s house and BF informed the Father to wait downstairs whilst they had a word with the Children. 45 minutes later, the Mother and BF brought the Children down to the void deck and a conversation started. Whilst the Children were not around for the latter part of the conversation, they were present at the beginning, and I set out below the relevant parts of the conversation that occurred in the Children’s presence.

100 The Mother had made a point about the Father’s responsibility towards the Children in an aggressive manner, and her words are succinctly reproduced below:

“No okay listen, you are the father okay? You admit that you're the father right?”

...

“And you take the responsibility...”

...

“It's factual, so you admit it right? So you know that being a father comes with the responsibility of being a father right?”

...

“Especially now you know we are already very clear you are the father, you have your responsibility towards them right?”

...

“Then your responsibility is what?”

101 From the above, the Father justifiably felt that having the Children watch him get interrogated aggressively by the Mother about his responsibilities and role as a father depicted him as some sort of criminal or irresponsible father.

102 Moving on to BF, the material part of his involvement happened shortly after the Mother’s words above. BF’s involvement related to his suggestion that

the Father's on-the-spot apology to the Children was not sincere. The conversation went as follows:

Father: *"I apologise, I'm very very sorry. Very sorry. And it will not happen again, I will always ensure that the discussion is more open and to be clear, that day, there was no situation where I could have insisted you go, right? But if I give you that impression, I apologize. Very very sorry. And also sorry to you [Younger Child], I apologize. So so sorry. So I said this many times there as well, but they say this is not sincere. The only way I show sincerity is if I go away."*

BF: *"Why you all feel that it wasn't sincere?"*

Older Child: *"Cause he always like this one and then everytime he don't learn from the mistake."*

...

BF: *"[inaudible] okay so gor gor have just said that we all don't feel that is sincere because he's not learning from the mistakes. Okay? So why do you say that? **Why do you say so? You're implying that there were past experiences where you have gotten the apology, you have accepted it but the same thing happen again.**"*

Older Child: *"Yeah"*

[Emphasis added in bold]

103 From the above conversation, the Father felt that BF had continued to goad the Children into listing their grievances against him. Consequently, this had compounded the effect of the Mother’s earlier tirade against him about his responsibilities as a father.

104 Moving on, I briefly recap a third incident which I had already set out in more details above. This happened at the police station on the night when the Children ran away from the Father during the access session at United Square. It was undisputed that BF had uttered the following words in a harsh tone at the Father: “*why did you involve the police!*” and “*what are you trying to do?!*”. The Mother also said that the Father should “*apologise*” to the Older Child for making him run away. All of these were said by the Mother and BF in the presence of the Children.

105 Considering all these incidents collectively, I observe a disconcerting pattern of the Mother and BF consistently putting up a unified front to berate and humiliate the Father in the presence of the Children.

Summary of findings

106 I pause at this juncture to recap and summarise my findings of fact in relation to each of the 10 different incidents which had occurred in Phase 4, and the irresistible inference I draw from these findings.

s/n	Event	Relevant finding(s)
1.	The Older Child sent vitriolic text messages to the Father.	The Mother, despite knowing about these messages, not only justified but did not discipline or correct the Older Child for sending such disdainful messages to the Father.

2.	The Children caused mayhem at the Father's house during the first overnight access.	The Mother blamed the Father for being negligent in leaving the spray can in the Children's room without supervising them. In relation to the eggs, the Mother dismissed the Children's act of leaving broken eggs underneath a couch in their grandfather's room as a mere "prank". The Mother did not take any disciplinary or remedial actions on the Children for their behaviour that night.
3.	Unsupervised by the Mother, the Children ran away from the Father at the beginning of access sessions on at least eight different occasions.	Through the Mother's lax attitude and hands-off approach, she had emboldened the Children in diminishing the quality of their access sessions with the Father. She simply did not care if the access sessions were well facilitated and instead left the Father to handle the Children and deal with their adolescent whims on his own.
4.	The Children ran away from the Father during an access session at United Square. They were later reunited at the police station after the Father filed a missing person's report.	The Mother showed no interest in providing timely updates to the Father after she found out where the Children were, and her deliberate omission led to the Father going on a wild goose chase for the Children. In re-framing BF's berating of the Father in front of the Children at the police station and brushing this off as merely using a "harsher tone", the Mother had expressly endorsed BF's conduct and this reinforced and amplified the Children's unhappiness with the Father.

5.	The Children were allowed to propose their own access terms to the Father on a document.	The Mother had instigated the making of this document. Despite knowing or having ought to have known the contents of this document, the Mother permitted the Children to show it to the Father and unilaterally begin discussions on their own access terms. This demonstrated a dereliction of the Mother's parental duties and a lack of insight into her responsibilities as a co-parent.
6.	The Children refused to share details of their school award ceremony with the Father.	The Mother had without any good reason cut the Father out of a very important moment in any parent's life, that is, to see their child[ren] walk up on stage to receive an award. As a co-parent, the Mother is expected to not conscientiously exclude the Father from an event celebrating the Children's academic success in school.
7.	The Mother did not permit the Father to visit the Older Child in the hospital.	Despite the Father having travelled all the way to the hospital upon hearing that the Older Child suffered a suspected head injury, the Mother refused to let the Father visit the child and instead stonewalled him by keeping him waiting for over an hour on site without any updates. She also left the hospital with the Older Child without giving the Father an opportunity to speak with him.
8.	The Mother refused to give the Younger Child's handphone number to the Father despite the latter asking multiple times.	The Mother had failed to facilitate the opening of a direct a line of communication between the Father and Younger Child. Her omissions in this context had contributed to an increased isolation in the Father's relationship with the Younger Child.

9.	The Mother refused to engage the Father in co-parenting the Children, especially the Older Child.	Having been made aware of the Children's and especially the Older Child's reluctance to spend time with the Father, the Mother demonstrated an unequivocal reluctance to positively improve the Father's relationship with the Older Child by doing a simple act of having a meal with the Father and Children to talk about the relevant issues affecting their relationship. Instead, the Mother limited her role to merely prescribing that the Father should apologise to the Older Child, and as far as she was concerned, that was the end of the matter.
10.	The Mother and BF had undermined the Father in the presence of the Children on multiple occasions.	Over the course of a few months, there had been a disconcerting pattern of the Mother and BF consistently putting up a unified front to berate and humiliate the Father in the presence of the Children.

107 The irresistible conclusion I draw from the abovementioned events when viewed as a whole is that the Mother, and occasionally BF, have been undermining the relationship between the Father and the Children, whether consciously or otherwise. The events above in fact confirmed my view that the Mother has continued to lack insights into how her nonchalant and permissive parenting style is driving a deeper wedge between the Father and the Children, despite having participated in court-ordered therapeutic interventions over the course of over a year.

108 With the benefit of hindsight, I now see that the Mother's present behaviours are eerily reminiscent of what Dr. 'X' had observed about her alienating behaviours during Phase 2. During Phase 2, the Mother had:

- (a) Harboured a deep distrust of the Father;

- (b) Viewed the Father's attempts to visit the Children at her home as harassment; and
- (c) Appeared to be absolutely convinced that the Father was irrelevant.

109 In the present Phase 4, I observe that the Mother now exhibits the following behaviours:

- (a) She strongly supports the Children's right to make their own decision about visiting or having access with the Father;
- (b) She (and to an extent, BF) confirmed for the Children that the Father is not worthy of the Children's attention; and
- (c) She and BF denigrates the Father in the Children's presence, and there was at least one occasion where the Children were encouraged to point out the Father's faults.

110 All of these are alienating behaviours according to the undisputed medical literature which Dr. 'X' had relied on and appended to his report¹⁹. I find that these alienating behaviours by the Mother and BF had contributed to the estrangement and breakdown of the relationship between the Father and the Children. At best, the Mother appears to be only paying lip service to the idea of co-parenting. At worst, the Mother could be said to be wilfully undermining the Father's relationship with the Children. Neither bodes well for the Children.

111 Unfortunately, this means that the Mother had regressed from all the progress she made, if any, during Phase 3. With that, I turn now to the law and

¹⁹ See Annex M of the report by Dr. 'X'

consider whether the prayers sought by the Father ought to be granted given the facts which have been disclosed.

The Law

112 It is trite that when considering applications of such a nature, i.e., switching the care and control of a child from one parent to the other, the court's foremost consideration is the welfare principle under section 3 of the Guardianship of Infants Act (Cap. 122) (the "**GIA**") and its application. In *TSH v TSE* [2017] SGHCF 21 ("**TSH**"), the High Court explained what the welfare principle is and how it may be applied:

[74] It is well-established that the concept of the welfare of the child is to be understood in the widest sense: *Lim Chin Huat Francis v Lim Kok Chye Ivan* [1999] 2 SLR(R) 392 at [86]. As the scope of the welfare inquiry is comprehensive, **a "multitude of factors" may impact on the ultimate inquiry into what is best for the welfare of the child: BNS** ([39] *supra*) at [20]. In this regard, the Court of Appeal has held that **there is no pre-fixed hierarchy of factors or considerations in any given type of application, and that where the factors stand in relation to each other must depend on a consideration of all the facts in each case: BNS** at [22]. To put it another way, there are no legal presumptions to the effect that any one or more factors will be given more weight in any given case: *BNS* at [23]; *TAA v TAB* [2015] 2 SLR 879 at [17].

...

[75] **These factors include continuity of arrangements, the need for both parents to have an involvement in the child's life, which parent shows the greater concern for the child, the maternal bond, the child's wishes, the desirability of keeping siblings together, and the loss to the child of the relationship with the left-behind parent: ABW v ABV** [2014] 2 SLR 769 ("**ABW**") at [20] and [23]; *BNS* at [25] to [26]. The idea of capturing various factors in a non-exhaustive statutory list to guide the application of the welfare principle was considered by the Family Law Review Working Group in its report titled *Recommendations for Guardianship Reform in Singapore* dated 23 March 2016. The statutory list approach has been adopted by England, Australia and New Zealand, and is being proposed in Hong Kong: s 1(3) of the 1989 Act; s 60CC of the Family Law

Act 1975 (Cth); s 5 of the Care of Children Act 2004 (NZ); cl 3(2) of the Children Proceedings (Parental Responsibility Bill) 2015 (Hong Kong). The Working Group had the occasion to consider these pieces of legislation and at para 48 of its report it proposed its own set of factors:

- (a) the child's physical, emotional and educational needs, and his physical and emotional safety;
- (b) the capacity of each of the child's parents and of any other caregiver to provide for the child's needs and to ensure the child's safety;
- (c) the child's relationship with each of his parents and with any other caregiver;
- (d) the need to ensure a continuing relationship between the child and his or her parents; and
- (e) the effect of any changes.

[76] The rationale for this series and sequence of factors may be explained in this way. **A proper analysis of the welfare of a child must begin by identifying the child's needs. Making this an issue of the first order allows the needs of the child to shape the ensuing inquiry.** This gives effect to the imperative in s 3 of the GIA to regard his welfare as the "first and paramount" consideration. **When those needs are identified, the court must then consider whether those contending for responsibility over care of the child will in fact be able to meet them.** The law for good reason places primary responsibility of the care of the child on his natural parents. Therefore, their capacity to meet the child's needs will be assessed before that of any other caregiver. **Closely connected to their ability to discharge their responsibility of care is their relationship with the child, which is a crucial factor in determining how they would relate to the child in their care of him.** In the light of the answers to these issues, the court must then assess what solution would best meet the needs of the child. **Two important factors must be taken into account in this assessment: the desirability of the child maintaining a good relationship with both parents to the best extent possible, and the impact upon the child of any changes envisaged for him.** I use this organising framework below to deal with the parties' various contentions in assessing M's best interests.

[emphasis added above in bold]

113 Also relevant is the case of *ABW v ABV* [2014] 2 SLR 775 ("*ABW*"), in which the High Court applied the welfare principle and switched the care and

control of two children from one parent to the other. Unsurprisingly, the Father relied primary on this case in support of his present application.

114 In *ABW*, the parties' two daughters had been staying with the father for more than four years since the mother left the matrimonial home in June 2009. In July 2011, an interim judgment for divorce was made. Care and control was awarded to the mother on 18 December 2012. The father did not hand the children over to the mother as ordered. The father appealed to the High Court for care and control. He successfully applied for a stay of the execution of the care and control order on 2 April 2013.

115 On appeal, the honourable Justice Judith Prakash (“**Prakash J**”) (as she then was) found that the father “*paid lip service to the idea of a close relationship between the children and the mother*” but “*In truth, he was contributing to an estrangement*” between the daughters and the mother and that the children’s relationship with the mother had been adversely affected without any apparent reason for the same.

116 Prakash J further held that switching care and control would be an appropriate remedy where the parent having care and control has been deliberately or unconsciously interfering with the bond between the child and the other parent:

[26] It has been said that the child is the unseen and unheard victim of a marital breakdown. The courts do their best to help minimise the negative impact of a divorce and we recognise that **it must normally be in the child’s interest to maintain a relationship with both his parents**. In England, **this recognition has gone so far as to impel the courts to reverse residence orders**, the equivalent of Singapore care and control order, **when it is established that the parent with whom the child is residing has been undermining the relationship between the child and the other parent**. Such behaviour can have an alienating effect on the child.

....

[29] Having said that, it is clear that **switching care and control is a remedy that can be adopted if a judge finds that the parent having care and control has been deliberately or unconsciously interfering with the bond between the child and the other parent.** This remedy would be most suitable in a situation in which the **child begins to show animosity towards a parent with whom he previously had a loving relationship.** The court would have to consider if there is any apparent external reason for the animosity. A situation in which the child has previously uneventful and loving interactions with the relevant parent may call for this approach. It may also be that **this approach is most helpful when the animosity has recently manifested itself and has not had a chance to become ingrained.**

[Emphasis added above in bold]

117 In the circumstances, Prakash J found that the appropriate course to be taken in the best interests of the children was to give the mother care and control while maintaining generous access for the father. It was clear that Prakash J considered the need to preserve the children’s relationship with the mother to be the “paramount factor”. Prakash J held: -

[45] I concluded that the **children’s relationship with the mother had been adversely affected without any apparent reason** for the same. I agreed with the DJ’s finding that it would be in the children’s interests for them to be with the parent who was willing to be reasonable about access and could share them with the other. **The children were in danger of becoming completely estranged from the mother. This was not a desirable development:** they were young girls who would benefit from the care and attention of a loving mother. They also needed a good relationship with their father but a relationship in which they felt it necessary to cling on to him every time they were supposed to see their mother was not a healthy relationship. This was not a case of an abusive or neglectful mother. From their birth, she had cared for the children; after she left the matrimonial home, she had continued to be in regular contact with them until after the incidents of November 2011. All observers of the children’s interaction with the mother made positive comments on her relationship with both of them and how she handled them.

[Emphasis added above in bold]

118 Notwithstanding *ABW*, it is not always the case that a switch in care and control is the appropriate remedy in every case where one parent has engaged in parental alienation. In this regard, Prakash J cautioned that switching care and control is simply “a remedy that *can* be considered” under the appropriate circumstances. On the other end of the spectrum in the line of cases concerning the switch of care and control where there is evidence of alienation, the courts have on occasion declined to make such an order. On this note, I turn now to the case of *TEN v TEO and another appeal* [2020] SGHCF 20 (“**TEN**”).

119 *TEN* was a mother’s appeal against the decision of the lower court not to grant her prayer to vary an order made on 2 August 2016 (which gave the parties joint custody of the children and care and control to the father) for, *inter alia*, care and control of the children of the marriage, who were 13 and 16 years old to be switched from the father to the mother. The mother argued that the father had been alienating the children from the mother. The lower court found that “*there was a lack of clear and compelling evidence and grounds*” to make a conclusive finding that the father had been deliberately or wilfully alienating the children from the mother since the 2 August 2016 was made.

120 On appeal, Justice Debbie Ong (“**Ong J**”) found that it was “*likely that there was excessive gatekeeping or alienating behaviour by the [f]ather, through conduct arising whether intentionally or unintentionally from his words and acts.*” Even though the father’s influence was not the only cause of the estranged situation between the children and the mother, it was held that “*the [f]ather had undermined the [c]hildren’s emotional and psychological wellbeing by failing to cease this behaviour over the past years*”.

121 Eventually, having considered the matter carefully, Ong J did not think that a reversal of care and control would be appropriate. Ong J further highlighted that even the mother was not seeking an immediate reversal of care and control because “*she (very fairly, in the circumstances) recognised that it would be difficult to immediately restart contact with the children*”. In the circumstances, Ong J held as follows:

[56] In the present circumstances, I found that the best interests of the Children required the Mother to cease direct contact with them until they were ready and willing to meet her. **This would be painful for the Mother, but I was of the opinion that pushing the Children to connect with the Mother now might cause a further deterioration of whatever remained of their relationship with her.** It would be better for the Children to be given room to recover without such pressure. When the Children are older, they may see and understand that both parents loved them, but when they were unable to resolve their own conflicts, circumstances spun off in a direction that was very unfortunate. It may well be that children of divorce will only be able to look back on the difficult years and understand that their parents were themselves mired in deep emotions that might have taken over rational decision-making, only after they have reached adulthood. **These children, as more mature adults, may then be willing to reconnect with their estranged parents.**

[Emphasis added above in bold]

122 To summarise, the law requires that I consider the best welfare of the Children when making my order. Both *ABW* and *TEN* recognised that the best interests of the children in their respective cases was for them to have a close relationship with the estranged parent. The similarities end here. On one hand, the court in *ABW* held that the switch of care and control was to take place immediately whilst the pre-adolescent children were still young²⁰. On the other hand, the court in *TEN* found that the teenage children²¹ would be better off

²⁰ At the time of the appeal, the children in *ABW* were 9 and 7 years’ old respectively.

²¹ At the time of the appeal, the children in *TEN* were 13 and 16 years’ old respectively.

recovering at their own pace and they could reconnect with their estranged mother when they are older, perhaps in adulthood. Both decisions seek to promote the same outcome, that is, for the respective children to restore and have a close relationship with their once-estranged parent. I shall therefore take heed and be guided by these principles enunciated in *ABW* and *TEN* in applying the law to the present case. Ultimately, this will involve balancing the best interests of the Children against the realities of the situation. Before that, I will set out below in brief the Parties' arguments.

The Parties' arguments

The Father's arguments

The Father's arguments made at the end of Phase 2

123 In his arguments made after Phase 2, the Father argued that his once-loving relationship with the Children had inexplicably deteriorated into one where the Children would express their hatred for him (as set out in my findings on Phase 2 above). The Father then directed me to the report of Dr. 'X', whose unrebutted expert opinion was that even though severe parental alienation had taken place, the damage done was not irreparable. The Father pinned the state of affairs on the Mother, as she had waged a campaign of alienation against him.

124 The Father submitted that the Children's welfare would best be served by preserving and rebuilding their relationship with him, so they would have the involvement, love, care, and support of both parents in their lives. Where stability for the Children is concerned, i.e., maintaining *status quo*, the Father submitted that this cannot be the paramount factor where there is parental alienation. For this reason, the Father sought a switch of care and control of the Children from the Mother to himself, where he was prepared to be reasonable

about access. Otherwise, the Children would be at risk in the long run of losing one of the most important human relationships they could have. Any short term distress felt by the Children would thus be outweighed by the long term gains made from the improvement in the Children's relationship with the Father.

125 Next, the Father also submitted that removing the Children from the influence of a third party, BF, would be in their best interests as BF has sought to usurp the Father's role as a father. This argument was seemingly made in reliance of the findings in *VDZ v VEA* [2020] SGHCF 2 ("*VDZ*"), where the High Court had observed that the extent to which a third party, allegedly the wife's lover, was involved in the family was "*deeply troubling*". In essence, the said third party has had a negative influence over the children by embroiling them in the conflict between the parents.

126 Finally, the Father highlighted that he could meet the Children's physical needs to a higher standard than the Mother. Compared to the Mother who currently lives in a 3-room HDB flat with seven other persons (including a domestic helper), the Father lives in a 4-storey recently renovated, well furnished, modern intermediate terraced house that is airconditioned, neat, clean, bright and airy. As a result, the Father was able to provide a bedroom for the Children when they stayed with him, whereas the Children have to share sleeping arrangements with their maternal grandparents, BF, and the Mother on a nightly basis when they live with her.

The Father's arguments made at the end of Phase 4

127 There was a lull in the proceedings during Phase 3, as the Parties went through therapeutic interventions ordered by the court. After the events which occurred in Phase 4, the Father made further submissions in which he maintained his position that switching the care and control of the Children was

a necessary remedy, as the Mother by her conduct and her words, had shown herself not only unwilling to participate in the process, but also that she was willing to work against the healing process and continue to alienate the Children. This healing process would only work where all parties are willing to participate. Despite there being some progress made in the Children's relationship with the Father in Phase 3, the Mother thereafter renewed her old behaviour of alienation and refusal to co-parent, unravelling any progress that has been made.

128 Having exhausted the usual repertoire of remedies to manage the alienation, the Father urged the court to weigh the risks to the Children in terms of switching care and control and the effects of long-term alienation and the complete destruction of the father-child relationship. In this regard, the Father submitted that the former would pose a lower risk of harm to the Children than the latter, which involves them growing up without their natural father.

129 Should an order for the reversal of care and control be made, the Father recognised that the Children may not be wholly ready to move in with him. Therefore, the Father referred me to a plan dated 9 March 2022 (the "**Reunification Plan**") prepared by Dr. 'Y', a senior psychologist in private practice who was specifically recommended by Dr. 'X' in his report.

130 The Reunification Plan was prepared on the basis of a hypothetical outcome where care and control of the Children would be switched over to the Father. In such a scenario, the Reunification Plan would facilitate and ensure that the process of the Father taking over the Children's care and control would be smooth and with any potential issues or distress to the Children being carefully managed.

131 Dr. ‘Y’ is of the view that the Reunification Plan would be in the best interest and welfare of the Children as it provides for preparation and transition so as to ease the Children into the new care and control arrangement and to minimise potential distress. The Reunification Plan also includes a long-term and comprehensive therapeutic intervention plan for the Children and the Parties with a goal towards the eventual normalization of the Children’s relationship with both parents. Dr. ‘Y’ is confident that with the cooperation and participation of the Parties, the plan will be successful, and will lead to the repair of the Children’s relationship with the Father and that it will empower and encourage both parents to work together as co-parents.

132 In reliance on the above, the Father submitted that the four-stage Reunification Plan should be ordered to facilitate the upcoming transition if care and control of the Children is switched to him, and this should be the case if I substantively follow the principles as set out in *ABW*, considering the numerous similarities between that case and the present one.

The Mother’s arguments

The Mother’s arguments made at the end of Phase 2

133 The Mother took issue with the Father’s submission that parental alienation had taken place, notwithstanding that Dr. ‘X’ had provided an opinion on this. Even though I had given her the opportunity to cross-examine Dr. ‘X’, the Mother elected not to do so²². She also decided not to call a rebuttal expert witness such as a child psychiatrist. Notwithstanding that, the Mother argued that on the facts, it was parental estrangement that had taken place, and not

²² See the Mother’s written submissions dated 11 May 2021 at [1]

parental alienation. To this end, she cited the case of *VAQ v VAR* [2019] SGFC 99, in which a District Court had observed that:

[3] ... Parental alienation is the psychological manipulation of a child into showing unwarranted fear or hostility towards the other parent. Parental estrangement is a refusal by a child to see a parent due to the parent's negative behaviour...

134 In reliance on this, the Mother submitted that it was the Father who was the abusive parent and switching care and control to him would be damaging to the welfare of the Children. That said, the Mother acknowledged that the remedy in an alienation situation is to remove the child from the abusive parent. Whilst it is unclear as to where the Mother got the notion that there *must* be an abusive parent in an alienation situation, it is possible that she had used the terms interchangeably and what she truly meant to say was that the appropriate remedy in an alienation situation is to remove the child from the *alienating* parent. This would have the effect of curing the defect in her original statement. Because the Mother had classified (as it appears, based on her lay opinion) the situation as one of parental estrangement, she accordingly submitted that an order for care and control to be switched is not the appropriate remedy.

135 Further, the Mother also submitted that the Children's voices should be heard by the Court. In furtherance of this, she cited the case of *AZB v AZC* [2016] SGHCF 1 ("*AZB*"), in which the High Court had observed the following:

[11] Giving children the opportunity to be heard is part of Singapore's international commitment under Art 12 of the United Nations Convention on the Rights of the Child...

[12] Research supports the view that when children are given a voice in divorce proceedings, it is more often than not beneficial for the parties and the children..

...

[18] There are good reasons for the court to ascertain directly the views of the children by speaking to them...

[19] In my view, abandoning judicial interviews with children altogether due to concerns over their limitations and risks, is to throw the baby out with the bathwater...

...

[22] I do not think that having the children speak to a judge necessarily draws them into the fray of the parties' contentious proceedings. Many children in family proceedings have already witnessed and continue to witness parental conflict as they interact with their separated parents. Giving them the opportunity to express their views to a judge who will be making orders directly affecting their lives might in fact provide them a window out of the seemingly endless on-going parental conflict.

136 Specifically, the Mother contended that the Children in this case were of the appropriate age to make their views heard, and therefore the court should interview them before making an order. In conjunction with this, the Mother also submitted that an impartial specialist be appointed by the court to consider how best the Father's relationship with the Children can be restored.

The Mother's arguments made at the end of Phase 4

137 Having a court-appointed specialist review the case and speak with the Parties and relevant persons so that a report can be submitted to Court was precisely what followed, as a CER report and multiple DSSA reports were submitted to court by the respective specialists during Phase 3.

138 Having had awareness of the events leading up to and transpiring during Phase 4, the Mother had another opportunity to address the court. In these final submissions to the Court, the Mother submitted that neither her actions nor that of BF had resulted in the deteriorating relationship between the Father and the Children, as she had been actively taking steps to facilitate access. The Mother explained that their relationship had worsened because of the Father's inability

to communicate with the Older Child. She also highlighted that the safety of the Children was at stake, as they had run away from the Father during one of the access sessions at United Square. Finally, she made the point that having been subject to prolonged litigation, the Children need room to recover and rest, and coercing them to have access with the Father will only worsen the relationship between them.

139 The Mother therefore maintained her position that care and control of the Children ought not to be switched to the Father.

My decision

140 Having carefully considered the law and the evidence in this case, I will vary the previous court order and order a switch of the care and control of the Children to the Father.

Power to vary the existing order

141 To this end, I note that under the 22 February 2017 consent order in FC/IJ XXX/2017, parties were given joint custody of the Children. They were also given shared care and control of the Children until 31 December 2017. The order was silent as to what would happen thereafter in respect of care and control of the Children. In reality, I note that the Mother remained the primary caregiver of the Children and was the parent having *de facto* care and control.

142 The Father is now seeking to invoke the court's powers under section 128 of the Women's Charter (Cap. 353) (the "WC") for an order that the care and control of the Children to be switched to him. Considering the manner in which the Father pleaded his case, I must first be satisfied that a material change of circumstances had taken place before I can exercise these powers.

A material change in circumstances had taken place

143 Given my factual finding that the Mother had alienated the Children from the Father in Phase 2 and she had continued to undermine the relationship between the Father and the Children in Phase 4, a material change in circumstances has clearly taken place, as prior to the order being made in February 2017, the Father had a good relationship with the Children whereas the Children are now estranged from him with a significant degree of animosity in their relationship.

144 The Mother had urged me to find that it was not parental alienation which had taken place, but parental estrangement which had taken place instead. I was unable to accept this argument as the undisputed report of Dr. 'X' made clear that Dr. 'X' had applied his mind to the situation and considered the medical literature before forming the opinion that severe parental alienation had taken place. However, whether I find that it was parental alienation which took place or parental estrangement which took place, these are not mutually exclusive. It was in all likelihood the case that the Children became estranged from the Father because of the Mother's alienation and continued efforts to undermine the Father's role in their lives. Either way, a material change in circumstances had taken place, and this therefore gives me the power under section 128 of the WC to vary the order in FC/IJ XXX/2017.

Identifying the best interests of the Children

145 Having found that I have the power to vary the previous order, I must do so in accordance with the welfare principle pursuant to section 3 of the GIA. This requires me to make an inquiry into what would be the best interests of the Children, as the concept of 'welfare' is not a narrow one and has to be considered in the widest sense possible. This exercise consists of first

identifying the various interests that the Children might have, followed by weighing them against each other in order to ascertain as a whole, what would be in their best interests. This is especially vital if there are competing interests which *prima facie* may seem equally important, but ultimately only one can prevail.

146 Taking guidance from the High Court cases cited above, I have distilled a number of non-exhaustive interests relevant to this case that will promote the welfare of the Children, which I first set out below, then analyse in turn:

- (a) To maintain a good relationship with both parents to the best extent possible, and for both parents to have an involvement in the Children's lives;
- (b) To have stability and to minimise the impact upon the Children of any changes envisaged for them;
- (c) To have their material and physical comforts best taken care of;
- (d) To maintain the ties of affection the Children currently enjoy;
- (e) To maintain their maternal bond with the Mother;
- (f) To hear their voices and give effect to the Children's wishes;
- (g) The desirability of keeping siblings together; and
- (h) To not be exposed unnecessarily to prolonged litigation.

To maintain a good relationship with both parents to the best extent possible and for both parents to have an involvement in the Children's lives

147 By all accounts, the Children currently have a positive relationship with the Mother and a horrendous one with the Father, due to the actions of the Mother (and to a lesser extent, BF) in interfering with the bond between the Children and the Father. If this is to change for the better, the clearest way going forward would be the creation of an environment where the Children can get to spend more time with the Father and begin the healing process. The court can facilitate this journey by ordering a switch in care and control of the Children from the Mother to the Father whilst maintaining some access for the Mother.

148 The High Court in *ABW* had done precisely this, that was, to switch care and control of the alienated children from the resident parent to the non-resident parent as the children were in danger of becoming completely estranged from the latter. In my view, this consideration applies with equal force in the present case, where Dr. 'X' had found that "*the alienation ha[d] gone on for too long and has become very severe*". By placing the Children in the Father's care and control, this would significantly reduce the Mother's ability to interfere with their relationship, leading to less hatred and rejection towards the Father²³.

149 Similar to the findings in *ABW*, I am of the view that even if care and control is switched to the non-resident parent, in this case the Father, the other parent should continue to have generous access to the Children. This would have the effect of supporting the Children in maintaining a good relationship with both parents to the best extent possible, and for both parents to have a meaningful involvement in the Children's lives.

²³ See report by Dr. 'X' at [87]

To have stability and minimise the impact upon the Children of any changes envisaged for them

150 This is an equally valid, but counter-prevailing interest which is in direct tension with the above, in that these interests are mutually exclusive. If one should prevail, the other must give way.

151 The High Court in *ALJ v ALK* [2010] SGHC 255 recognised that preserving the *status quo* for stability is in the welfare of a child. It cited with approval the following:

[35] ...The general view is that there should be stability in the lives of the children. Too many changes within a short span of time would be detrimental to their well-being. If a child has been residing with one parent for the greater part of his life, the onus lies on the parent seeking to evoke a change to show that a new environment has advantages that far outweigh the security and stability of preserving the *status quo*.

152 In *ABW*, the High Court also recognised the principle that “[c]ontinuity of arrangements or stability is an important factor for the emotional well-being of a child”. Not surprisingly, the Mother relied on this principle in her submissions. Specifically, the Mother is correct in her underlying submission that that if utmost weight were given to principle, then care and control should not be switched to the Father, as the Children have been living under her care for years, and the evidence suggests they are comfortable with their current routine and living arrangements. Conversely, the Father argued that stability should not be the foremost important factor when parental alienation has taken place.

153 Before setting out my decision on which of the above interest should prevail, I discuss below a number of other interests of the Children which ought

to be considered holistically by the court as well in determining what would be in their welfare.

To have the Children's material and physical comforts best taken care of

154 Between the Parties, the Father comes out ahead where their financial abilities are concerned. Given the Father's job and current standing, he is well placed to provide better material and physical comforts to the Children. On the facts, having compared the house which the Children live in when staying with the Mother, and the house which they live in when staying with the Father, I accept the Father's argument that he can meet the Children's physical needs to a higher standard than the Mother.

155 However, the Father did not run the case that the Children's physical needs are the paramount consideration, and rightly so. Instead, he clarified that the Children's physical living space will have ramifications for their welfare. The Father further argued that the crowded situation in the Mother's house will only exacerbate as the Children grow older and need more personal space and privacy, as they navigate the usual challenges of adolescence. It would not be conducive or appropriate for the Children to continue to squeeze into one bedroom²⁴ in a 3-room HDB flat and share sleeping arrangements with their great-grandmother, grandparents, the Mother, BF, and the helper.

156 Whilst the Mother did not reply to these submissions by the Father, the question ultimately is one of how much weight should be given to this interest in the consideration of the Children's overall welfare.

²⁴ Report of Dr. 'X' at [47]

To maintain the ties of affection the Children currently enjoy

157 The Court of Appeal in *Soon Peck Wah v Woon Che Chye* [1997] 3 SLR(R) 430 (“*Soon Peck Wah*”) made clear that the ties of affection which a child currently enjoys is one relevant consideration when deciding on matters affecting a child, namely, whether it will promote the child’s welfare.

158 As such, I consider the Children’s current situation. Between the two sets of families that the Children are exposed to, I lean towards finding that the Children do in fact have a better relationship with their maternal family, to which BF is now a part of having since married the Mother.

159 Such positive familiar ties are less perceptible between the Children and their paternal family, especially given the nonchalant attitudes of the Children in recent months towards their step-mother and half siblings, and their misbehaviours when staying over at the Father’s house after overnight access was granted.

160 Maintaining such ties of affection is an important consideration, but this must ultimately be evaluated against the paternal ties of affection which they stand to lose if the Father is completely cut out of their lives.

To maintain the Children’s maternal bond with the Mother

161 Where young infants are concerned, *Soon Peck Wah* found that all other things being equal, a very important factor to bear in mind is the maternal bond between an infant and the natural mother, as the bond between the natural mother and her child is one of the most unexplainable wonders of human nature and should never be taken for granted or slighted. The Court of Appeal then went on to cite the following with approval:

[45] ... What is left is the strong presumption, which is not one of law but is founded on experience and upon the nature of ordinary human relationships, that a young girl should have the love, care and attention of the child's mother and that her upbringing should be the responsibility of her mother, if it is not possible to have the responsibility of both parents living together.

162 In the present case, the Children have a strong relationship with the Mother. However, they are not young infant girls in need only of their mother's love, care, and attention. As pre-adolescent boys about to enter their teenage years, I say with great conviction that they will also need their father's love, care, and attention in the coming years to reach their full potential and grow into fine young men of whom both parents can be proud.

163 In fact, the observations of *Soon Peck Wah* at [45] would apply with equal, if not greater force, when contextualised in the present case. With slight modifications to the original text, I find that “[a]ll other things being equal... [t]his court would be doing a disservice to justice and humanity if it turned a blind eye to the most fundamental bond of mankind – between a [father] and [his] child, by taking the child away from the [father]... In the best interest of the child's welfare, we should not deprive him of his [father's] love and care”.

164 In short, the maternal bond which the Children have with the Mother is no less important than the paternal bond they could, and ought to have with the Father.

To hear their voices and give effect to the Children's wishes

165 This particular interest was highlighted in both *Soon Peck Wah* and *ABW*. It would require the court to hear the Children and give some consideration to what their wishes may be. In fact, the Mother relied on this as one of her arguments in resisting the Father's current application. Following her

argument, the Mother must have believed that each of the Children would verbalise a desire to remain under her care and control. However, this is precisely what I would expect an alienated child to say. Therefore, little purpose would be served if I had conducted a judicial interview of the Children, as they would not be speaking with untainted minds due to the effects of alienation by the Mother.

166 Besides, this was not a case where the Children's voices have gone completely unheard. They are well encapsulated in the very comprehensive 38-page CER and various DSSA reports prepared by the respective professionals which have been placed before me. It was therefore sufficient for me to view the Children's wishes through the lens of these professional reports. That said, the weight to be given to the Children's wishes must also be considered cautiously, given the alienation effects at play.

That it is desirable for siblings to be kept together

167 As a factor going towards the Children's welfare, I note that the Parties did not dispute that the Children should be kept together, whatever the outcome of the Father's application for a switch of care and control. As such, I agree that the Children are best kept together and will make my order with this in mind.

That the Children should not be exposed unnecessarily to prolonged litigation

168 This was a point made by the Mother in her submissions, which I accept is a significant factor to be considered when considering the welfare of the Children. To recap, the Mother submitted that having been subject to prolonged litigation, the Children need room to recover and rest. I agree with this submission. The following observations made by the District Court in *Hangchi*

Valerie v Lim Kaling [2005] SGDC 23 remain equally relevant today as it was when first published:

[13] ... Prolonged litigation makes the relationship between the parties even worse, which bodes ill for the chances of any future co-operation between them regarding access to the children. It makes them incapable of moving on, both practically and psychologically. **It also traps the children of the marriage in uncertainty as to their future, as their routines and living arrangements cannot be said to have been properly settled until the custody and access orders (and, possibly, orders regarding the matrimonial home) are made in the ancillary matters. As the protector of children, the Family Court cannot allow this.** It also cannot encourage or condone a situation where its own processes become a major factor in the progressive worsening of the parties' relationship.

[Emphasis added in bold]

169 On the facts, the Children have been exposed to the parental conflict between the Parties since Phase 2 in March 2019. More than three years have since passed, and that is three years too long. It was recognised by the Court of Appeal in *BNS v BNT* [2015] SGCA 23 at [3] that children have often been described as the “silent victims” of a marital breakdown or the “unheard voices” in family litigation. Whilst ideally this should not be the case, it is unfortunately happening here.

170 My final order will therefore be made with a view towards giving finality to the Parties so that the Children can be spared the trauma caused by prolonged exposure to litigation. These orders will be made through the lens of therapeutic justice so as to encourage the Parties and the Children to begin the journey of restoration and pivot towards normalising the Children's relationship with both parents, who must themselves learn in the long-term how to co-parent.

The paramount interests and welfare of the Children

171 I have set out above a number of relevant interests which will promote the welfare of the Children. The next step is to commence a balancing exercise, and weigh the various interests, against each other if necessary, and determine which are paramount. In *TSH*, the High Court held as follows:

[74] It is well-established that the concept of the welfare of the child is to be understood in the widest sense: *Lim Chin Huat Francis v Lim Kok Chye Ivan* [1999] 2 SLR(R) 392 at [86]. **As the scope of the welfare inquiry is comprehensive, a “multitude of factors” may impact on the ultimate inquiry into what is best for the welfare of the child: *BNS* ([39] *supra*) at [20]. In this regard, the Court of Appeal has held that there is no pre-fixed hierarchy of factors or considerations in any given type of application, and that where the factors stand in relation to each other must depend on a consideration of all the facts in each case: *BNS* at [22]. To put it another way, there are no legal presumptions to the effect that any one or more factors will be given more weight in any given case: *BNS* at [23]; *TAA v TAB* [2015] 2 SLR 879 at [17].**

[Emphasis added in bold]

172 Taking guidance from this, I proceed by first setting out below a table of the relevant interests of the Children and then classifying these interests into those which support a switch of care and control to the Father, and those which suggest that *status quo* should remain, for the welfare of the Children.

Interests which support a switch in care and control of the Children to the Father	Interests which suggest that <i>status quo</i> should remain
The Children to maintain a good relationship with both parents to the best extent possible	To maintain the ties of affection the Children currently enjoy
Both parents to have an involvement in the Children’s lives	To maintain the Children’s maternal bond with the Mother

To have the Children's material and physical comforts best taken care of	To hear their voices and give effect to the Children's wishes
Neutral interests	
The desirability of keeping siblings together	To not expose the Children unnecessarily to prolonged litigation

173 Since the factors above have no pre-fixed hierarchy, I have to consider the unique facts of this case in deciding which interest(s) should prevail. In my view, the interests which suggest that *status quo* should remain are important interests. However, the scales tip in favour of the interests which support a switch in care and control because those interests are at the moment both urgent and important. In other words, time is of the essence given the ongoing alienation by the Mother and her actions in undermining the relationship between the Father and the Children. I find that the window of opportunity for the Father to restore the relationship with the Children is fast closing, and if no court-ordered action is taken now, the Children are in danger of being completely estranged from the Father and they risk losing one of the most important human relationships they could have.

174 I did not think that keeping the Children in a stable care environment here would be of paramount importance. This might feature more heavily if for example the issue was whether or not the Children should relocate from Singapore to another country. In the present case, merely uprooting them from one part of Singapore to another could not be said to be so destabilising that stability should outweigh the importance of the Children having a good relationship with both parents. In this case, the Mother is in a position to have continued physical access to the Children, such that their existing relationship and ties of affection will not be materially compromised.

175 Finally, I take reference from the High Court in *ABW* which was faced with having to balance between (i) the desirability of restoring the children's relationship with the estranged parent, against (ii) maintaining stability in the children's lives. Given the similarity in the factual matrix in *ABW* and the present case, I see no cogent reason not to deal first with the more immediate and urgent problem, as the High Court had done in *ABW*. Therefore, whilst stability is desirable, it is not the paramount factor in this case. Restoring the Children's relationship with the Father is.

Whether it is too late to reverse the effect of alienation on the Children

176 The Children once had a close and loving relationship with the Father. However, the relationship now is one of animosity and estrangement. Before this state of affairs becomes ingrained, immediate action must be taken.

177 In my view, the state of animosity between the Children and the Father is reversible. At the end of Phase 2, Dr. 'X' was of the opinion that the situation was not hopeless and that there was still time for the court to take drastic action immediately to resolve the access impasse. Dr. 'X' further stated that the prognosis for this case was not poor, and a favourable outcome was still possible²⁵, predicated on the Mother not interfering with the Children's access with the Father.

178 Even though some time had passed since Dr. 'X' provided his abovementioned opinion, the most recent evidence adduced by the Father demonstrated that he was still able to have access sessions with the Children that went uneventfully. This was one of the relevant factors which Dr. 'X' had relied on in giving his prognosis above. Building on the therapeutic sessions

²⁵ Report of Dr. 'X' at [87]

which the Father and Children had in Phase 3, the present animosity and estrangement between them seem reversible if, as Dr. 'X' had observed, the Mother stops her interference. Therefore, I find that time is of the essence, and the window of opportunity for the Father to restore the relationship with the Children is fast closing. If the court does not act now, it may be too late to reverse the effects of alienation on the Children, and they would be at danger of being completely estranged from the Father.

Giving effect to the best interests and welfare of the Children

The various remedies and approaches available to court

179 As noted above, it is in the Children's best interests to restore their relationship with the Father. There are a number of ways in which this can be done, and I now address the options available to the court which can give effect to this, bearing in mind the Children's welfare.

180 First, I could allow *status quo* to remain. However, this would clearly not be in the Children's welfare, as the Mother's continual undermining of the Father will lead only to a worsening of the Children's relationship with him.

181 Second, there was also the option of the court making further interim orders for the Parties and the Children to undergo one more round of therapeutic interventions before a final order was made. Some examples of these interventions include further access sessions with DSSA, the appointment of a Parenting Coordinator, the appointment of a Child Representative, counselling sessions, medical treatment, and therapy with a trained psychiatrist or psychologist. However, both Parties submitted that they did not want the court

to order any further interim therapeutic interventions. Both the Father²⁶ and Mother²⁷ made clear that they wanted a final decision to be given in this matter and were prepared for me to decide based on the evidence as it stood. I therefore decided that any order(s) I proceed to make will be final in nature.

182 Third, it was open for me to take the rare, albeit draconian, step of switching care and control of the Children from the Mother to the Father. This was done in *ABW*, where the court found that despite the negative emotions and distress that the children may feel arising from such a move, it was necessary because the resident parent was undermining the non-resident parent and it was important for the children to restore their once-loving relationship with the non-resident parent. In fact, the Mother specifically recognised²⁸ that this remedy is wholly appropriate in situations when one parent is alienating the child to the exclusion of the other parent.

183 Finally, I could also take a hybrid approach in this case. This might entail a combination of some of the available options as stated above, judiciously calibrated to give effect to the welfare of the Children, both in the short term and over the long term.

The most appropriate remedy under the present circumstances

184 Having carefully considered all the relevant facts in this case, I am of the view that a switch in the care and control of the Children to the Father is necessary. Namely, the Mother had alienated the Children from the Father in Phase 2, and despite therapeutic interventions in Phase 3, the Mother continued

²⁶ NE, Day 5, Page 3, Lines 29-30

²⁷ NE, Day 5, Page 10, Lines 9-14

²⁸ Defendant's submissions dated 23 November 2022 at [22]

to undermine the Father by interfering with the bond between him and the Children through her actions and omissions. This has resulted in a situation where the once-loving relationship between the Father and the Children have been completely destroyed, which is not desirable for the welfare of the Children. Ordering a switch now will ensure that the Children and the Father are given a fighting chance to restore their relationship and doing nothing will only spell doom for the relationship. This would deprive the Children of one of the most important human relationships they could have.

185 The Mother is naturally going to be disappointed with my order. However, the present situation could be likened to a disease which must be dealt with swiftly. There will be pain at first, but when done right, the healing will come after the pain. I would like the Parties, and especially the Mother, to pay heed to the comforting words of the High Court in *VVB v VVA* [2022] SGFC 1:

[27] ... In the Family Justice Courts Workplan 2018, In The Next Phase, I had said (Debbie Ong J, “Family Justice Courts: *In The Next Phase*”, speech at the Family Justice Courts Workplan 2018 (28 February 2018)):

20 A doctor diagnoses and provides a patient with timely interventions and treatments. A doctor may also refer the patient to another doctor or other professionals for specialist treatment. **Sometimes a doctor must act swiftly to remove a tumour so that a cancer does not spread further. Treatment thereafter can be difficult and painful**, such as chemotherapy for many months.

21 **A family judge may make orders that seem painful to the parties, like the removing of a tumour, but these orders can start the journey of restoration. ...**

[emphasis added]

Just as the surgical removal of a diseased organ is painful and a loss, the problem-solving process takes effort and

some sacrifices. But healing will come after the pain. It is that new positive future in the long term that is of great gain to the parties in this therapeutic justice system.

[Emphasis added in bold]

186 Additionally, I would also highlight observations made by the High Court in *TEN* at [4] and [5], where it was said that the family justice system is intended to aid the parties (and their children) to achieve as much healing in all its variegated aspects as is possible in order that they move forward as positively as possible with their lives. It is the personal responsibility of all parents to place the interests of their children at the forefront of all their concerns. In this vein, I would urge the Mother to actively support the Children in rebuilding their relationship with the Father, and to be patient, to understand that the process of restoration would take time, and to give her best to work cooperatively towards the Children's welfare.

Mitigating against any upheaval in the Children's lives arising from my order

187 Turning now to the manner in which the switch should take place, it must be done in a way which minimizes the trauma and distress caused to the Children. An unregulated and sudden switch in care and control may lead to increased chaos in the Children's lives and that surely cannot be in their best interests. Whilst the court in *ABW* took the approach of immediately switching care and control of the children to the non-resident parent and thereafter limited the resident parent's access for the first four weeks, I did not think that such a swift and sudden approach is appropriate in the present case. Namely, I have the benefit of reading the professional opinion of Dr. 'Y' in her report placed before me, which set out details of the Reunification Plan.

188 Specifically, the Reunification Plan recommended that any switch of care and control of the Children must be done in a graduated process that first starts with the Children increasing their contact with the Father, before fully going into his care. Thereafter, therapy and counselling were also recommended for all parties involved to kickstart the healing process, with the end goal of normalising the Children's relationship with both parents. In particular, the Reunification Plan consists of four stages, which I summarise as follows:

- (a) Stage 1: The preparation phase
 - (i) This will last approximately six weeks.
 - (ii) The Father should spend time with the Children by having video calls, weeknight access, and overnight access with them.
 - (iii) The Father, the Mother, BF, and the Children to attend co-parenting counselling and reunification therapy.
- (b) Stage 2: The transition phase
 - (i) This will last approximately four weeks.
 - (ii) It will be appropriate at this stage to increase the Father's time with the Children and have liberal contact with them.
 - (iii) If necessary, Dr. 'Y' and her counsellors can be present during the Father's time with the Children during Stages 1 and 2.
 - (iv) Therapy will continue in the meantime.
- (c) Stage 3: Moving in with the Father

- (i) It is envisaged that the Children will move in fully with the Father.
 - (ii) The Mother should have unsupervised access to the Children if the progress for the Mother is good. This is subject to further adjustments depending on the Mother's receptiveness to and progress in the counselling and therapy sessions.
- (d) Stage 4: Long-term follow up and monitoring of progress
- (i) The aim at this stage is to heal the Children's relationship with the Father, normalise the Children's relationship with both parents, and empower both parents to co-parent effectively.
 - (ii) Therapy sessions should continue for the foreseeable future.
 - (iii) Dr. 'Y' to assess and periodically review the Mother's progress every six months, and make the necessary recommendations, if any.

189 Save for some necessary amendments, I accept the recommended Reunification Plan of Dr. 'Y' in its entirety, as these recommendations are sound and were made with the benefit of having a comprehensive understanding²⁹ of the case and its nuances, and at its very heart, is consistent with the spirit of problem-solving and therapeutic justice. I therefore order that the switch in care and control of the Children be done in the stages as recommended by Dr. 'Y'.

²⁹ See Annex A of Dr. 'Y's affidavit dated 9 March 2022

190 For completeness, such an order is also consistent with the professional views³⁰ of Dr. ‘X’, who opined that going forward, a court order which merely addresses the care and control situation is unlikely to work, without being accompanied by clinical treatments that are tailored for the family. I completely agree with this assessment. Hence, it is only appropriate that my orders address both the legal and treatment elements which this family needs.

Costs of treatment under the Reunification Plan

191 No evidence was placed before me on the issue of how much it will cost the Parties to comply with the treatment plan proposed by Dr. ‘Y’. As the treatment is to be carried out by a senior psychologist in private practice, one would imagine that the treatment will not come cheap.

192 The Father submitted that the treatment and therapy costs should be born solely by the Mother on a reimbursement basis. On some level, such a submission is not inherently incredulous as the present situation and accordingly, need for the Parties and the Children to attend treatment, was largely caused by the Mother. However, if viewed through co-parenting and forward-looking lenses, it may be arguable that the costs of treatment and therapy ought to be borne equally by both parties. On the other hand, I cannot ignore the reality that the Mother is a homemaker who is legally aided in these proceedings whilst the Father is a man of means.

193 In exercising my discretion in these matrimonial proceedings, I order the Father to bear all the costs of treatment and therapy under the Reunification Plan, without prejudice to his other rights in law. This should not be interpreted as the Father being penalised simply for being the more financially capable

³⁰ Report of Dr. ‘X’ at [85]

party. Seen another way, no amount of money is too much for a father who can well afford to pay to restore one of the most important human relationships the Children could have.

Whether it is in the Children's best interests to cease direct contact with the Father

194 For completeness, I am aware that it is not in every case where there has been a breakdown in family relationships so grave and extreme that care and control of children are switched from one parent to another. A good example of this is the case of *TEN*, where a father had deliberately or wilfully alienated the children from their mother. This had the effect of undermining his children's emotional and psychological wellbeing to the point that their relationship with the mother completely broke down. However, the High Court found that the best interests of the children required the mother to cease direct contact with them until they were ready and willing to meet her. Whilst painful for the mother, it was held that pushing the Children to connect with the Mother immediately might cause a further deterioration of whatever remained of their relationship with her, and that it would be better for the children to be given room to recover without such pressure.

195 The Father recognised that these arguments could apply with equal force to the present case. Therefore, he sought to distinguish *TEN* from the present case by highlighting that the age of the children the length and extent of the estrangement in *TEN* are different from the present case as the Children are still young and not yet teenagers, and the length and extent of the estrangement is short and reconcilable.

196 Specifically, the Father argued that the two daughters in *TEN* are teenagers who are 13 and 16 years of age. Being in their teenage years, there

were legitimate concerns that switching care and control to the mother to “push” the children to reconnect with the mother would be met with strong resistance from the children. Practically speaking, it would be extremely difficult and counterproductive to make teenagers to do something against their wishes, regardless of what the court orders. In contrast, the Children in the present case are of a different age group, the Older Child is now 12 years old, and the Younger Child is 10 years old. They would be much more malleable and adaptable to a change in environment, and the parents and the court would have greater influence over the Children’s lives.

197 Second, it was also argued that length and extent of the estrangement in *TEN* was significantly more severe than in the present case. The children in *TEN* had been estranged from the mother for more than six years. The High Court noted that the mother “*had not had any meaningful contact with the children since August 2014 (when they would have been about ten and seven years old)*”. It was also noted that the children’s “*fear*” of the mother were “*real to them*” and that “*the past 6 years*” had been “*very difficult*” for the children, who have had to see multiple counsellors and repeatedly recount their anxieties to the counsellors. In contrast, the length and extent of the estrangement in the present case is much less, consisting about three years if one counts from the start of Phase 2 in March 2019. If one instead considers the *cumulative* period of estrangement in Phases 2 and 4, this will amount to approximately two years. Either way, it is significantly less than the six years of estrangement in *TEN*.

198 I therefore wholly agree with the Father’s submissions that *TEN* can be distinguished. In accordance with my findings above, the present case is not one where the relationship between the Children and the Father is hopelessly irreparable. Given that the Children are still young, and the effects of alienation had not yet taken root like in the case of *TEN*, I find that there is still time for

the effects of alienation on the Children to be reversed, but the court has to act now in order to prevent the Childing from being completely estranged from the Father. Further, the mother in *TEN* did not even seek a switch in care and control of the children. The present case is different, for this was exactly what the Father had prayed for, and in my view, on very persuasive grounds.

My orders

199 In view of the above, the Father had succeeded in proving on a balance of probabilities that a switch of care and control of the Children is in their best interests and welfare. I therefore make the following orders:

(a) Prayer I (a) of FC/SUM 2088/2020 is allowed. Paragraph 3(b) of the Order of Court made on 22 February 2017 is varied by deleting the same and replacing it with – "The Plaintiff be granted care and control of the Children."

(b) It is further ordered as follows:

Stage 1: Preparation Phase

(c) For six weeks following the date of this order, the Children shall spend time with the Plaintiff as follows:

- (i) Over video calls on Mondays at 9.00 pm;
- (ii) On Wednesdays from 5.00 pm to 9.00 pm; and
- (iii) Overnight from Fridays 7.15 pm to Saturdays 9.00 pm.
- (iv) In respect of paragraph (c)(i) above, the Defendant shall ensure that the Children calls the Plaintiff at the appointed time.

(v) In respect of paragraph (c)(ii) and paragraph (c)(iii) above:-

(A) Unless otherwise agreed, the Plaintiff shall fetch the Children from the Defendant's residence' void deck at the start of the access period and return the children to the same place at the end of the access.

(B) The Defendant shall facilitate the hand-over of the Children to the Plaintiff. This includes and is not limited to encouraging and ensuring that the Children go with the Plaintiff.

(C) The Defendant shall not do anything to impede, disrupt, obstruct, undermine and / or hinder the Plaintiff's access time with the Children.

(D) The Defendant shall ensure to the best of her ability that BF complies with the letter and spirit of the above orders.

(E) Dr. 'Y' is at liberty to be present to facilitate the interactions between the Children and the Plaintiff.

(d) The Children shall each attend one session of counselling / reunification therapy per week with Dr. 'Y'.

(e) The Defendant shall attend one counselling session / therapy with Dr. 'Y' every alternate week to work on re-establishing the roles of the Plaintiff and the Defendant in co-parenting the Children.

(f) BF is at liberty to attend the counselling sessions / therapy (mentioned in the paragraph above) together with the Defendant. The

Defendant shall do everything in her power to encourage and persuade BF to attend said sessions together.

(g) The Plaintiff shall attend one counselling session / therapy with Dr. 'Y' every alternate week to work on re-establishing the roles of the Plaintiff and the Defendant in co-parenting the Children.

Stage 2: Transition Phase

(h) For the next six weeks immediately following the completion of Stage 1, the Children shall spend time with the Plaintiff as follows:

- (i) Over video calls on Tuesday and Thursdays at 9.00 pm;
- (ii) On Wednesdays from 5.00 pm to 9.00 pm; and
- (iii) Overnight from Fridays 7.15 pm to Mondays 12.00 pm.
- (iv) In respect of paragraph (h)(i) above, the Defendant shall ensure that the Children calls the Plaintiff at the appointed time.
- (v) In respect of paragraph (h)(ii) and paragraph (c)(iii) above:-

(A) Unless otherwise agreed, the Plaintiff shall fetch the Children from the Defendant's residence' void deck at the start of the access period and return the children to the same place at the end of the access.

(B) The Defendant shall facilitate the hand-over of the Children to the Plaintiff. This includes and is not limited to encouraging and ensuring that the Children go with the Plaintiff.

(C) The Defendant shall not do anything to impede, disrupt, obstruct, undermine and / or hinder the Plaintiff's access time with the Children.

(D) The Defendant shall ensure to the best of her ability that BF complies with the letter and spirit of the above orders.

(E) Dr. 'Y' is at liberty to be present to facilitate the interactions between the Children and the Plaintiff.

(i) The Children shall each attend one session of counselling / reunification therapy per week with Dr. 'Y'.

(j) The Defendant shall attend one counselling session / therapy with Dr. 'Y' every alternate week focusing on reinforcing and encouraging her to co-parent and manage any challenges she may have.

(k) BF is at liberty to attend the counselling sessions / therapy (mentioned in the paragraph above) together with the Defendant. The Defendant shall do everything in her power to encourage and persuade BF to attend said sessions together.

(l) The Plaintiff shall attend one counselling session / therapy with Dr. 'Y' every alternate week focusing on any improvements that may be needed and / or to manage challenges which he may face.

Stage 3: Moving in with the Plaintiff

(m) Immediately following the completion of Stage 2, the Children shall move into the Plaintiff's residence and live with the Plaintiff.

- (n) Subject to paragraph (n)(iv) below, the Defendant shall have access to the Children as follows: -
- (i) Video call access on Mondays at 9.00 pm;
 - (ii) Wednesdays from 5.00 pm to 9.00 pm; and
 - (iii) Overnight access from Fridays 7.15 pm to Saturdays 9.00 pm.
 - (iv) Dr. 'Y' is at liberty to make recommendations to the court on such access arrangements as she may deem necessary based on the Defendant's progress or lack thereof, including increasing such access in the case of the former, or reducing or converting her access to supervised access, in the case of the latter.
- (o) The Children shall each attend one session of counselling / reunification therapy per week with Dr. 'Y'.
- (p) The Defendant shall attend one counselling session / therapy with Dr. 'Y' every alternate week focusing on reinforcing and encouraging her to co-parent and manage any challenges she may have.
- (q) BF is at liberty to attend the counselling sessions / therapy (mentioned in the paragraph above) together with the Defendant. The Defendant shall do everything in her power to encourage and persuade BF to attend said sessions together.
- (r) The Plaintiff shall attend one counselling session / therapy with Dr. 'Y' every alternate week focusing on any improvements that may be needed and / or to manage challenges which he may face.

Stage 4: Long term follow-up plan and monitoring of progress

(s) At any time after the commencement of Stage 3, Dr. 'Y' is at liberty to conduct periodic assessments with the Plaintiff, Defendant, BF, and the Children at every 6th monthly interval to: -

(i) Review and, if necessary, make recommendations to the court on the Defendant's access to the Children.

(ii) Review and adjust, if necessary, the Children's and all parties' counselling / therapy sessions, including and not limited to frequency and whether further counselling / therapy is required.

General orders

(t) During the Plaintiff's time with the Children, he shall have complete access to the Children's mobile devices, and the Defendant shall ensure and facilitate the same.

(u) The Defendant: -

(i) Shall not disparage, whether directly or indirectly, explicitly or implicitly, the Plaintiff and/or the Plaintiff's family to or in front of the Children;

(ii) Shall not refer to the Plaintiff as "[initials redacted]", whether to or in front of the Children, and permitting, encouraging, influencing, or condoning the Children to do so;

(iii) Shall take steps to have the Children acknowledge and recognise the Plaintiff's position and role as the Children's father;

(iv) Shall encourage the Children to interact positively with the Plaintiff; and

(v) Shall ensure to the best of her ability that BF complies with the letter and spirit of the above orders.

(v) In furtherance of the parties' roles as co-parents to the Children, the parties shall maintain open channels of communication concerning matters involving the Children, including via telephone, email, or WhatsApp. In connection to this, the Defendant shall not block the Plaintiff on WhatsApp on the Plaintiff's undertaking that he shall only contact the Defendant for matters relating to the Children and that he shall not cause any harassment, alarm, or distress to the Defendant.

(w) The Plaintiff and the Defendant, whether by themselves or their agents and/or friends and/or family members are restrained from involving the Children in the litigation between them, whether ongoing or in the past, including verbal or written communication of the proceedings, showing the Children copies of any legal or court documents and/or otherwise sharing with the Children any correspondences, emails or any other communication pertaining to the said proceedings or discussing the same with the Children in whatever form or substance.

(x) In relation to the counselling / therapy sessions conducted by Dr. 'Y' for the Plaintiff, the Defendant, BF, and/or the Children (collectively, the "**Therapy Sessions**" and individually, a "**Therapy Session**"):-

(i) The Defendant shall not do anything to impede, disrupt, obstruct, undermine and/or hinder the Therapy Sessions.

(ii) Where the Children are with the Defendant and the Children have a Therapy Session, the Defendant shall send the Children to and ensure the Children are at Dr. 'Y's' therapy centre before the start of the appointed time.

(iii) The Therapy Sessions are subject to such adjustment(s) as may be determined by D. 'Y', including and not limited to the participants, frequency, duration and structure of the said sessions.

(iv) Dr. 'Y' may conduct and/or recommend psychiatric / psychological assessments on the Defendant to determine or rule out any clinical issues that may have a bearing on her ability to co-parent the Children with the Plaintiff. The Defendant shall attend and/or participate in such assessments as conducted and/or recommended by Dr. 'Y'.

(v) The Defendant shall ensure to the best of her ability that BF complies with the letter and spirit of the above orders.

(vi) All communications between the parties and Dr. 'Y' in respect of arranging for Therapy Sessions, psychiatric / psychological assessments for the Defendant and/or adjustments to the Defendant's access shall be via (i) the Defendant's email address "[email address redacted]" and (ii) the Plaintiffs email address "[email address redacted]".

(vii) References to Dr. 'Y' in this Order shall also include any counsellor or psychologist that Dr. 'Y' may assign as she deems fit.

(viii) Without prejudice to the Plaintiff's other rights in law, the Plaintiff shall solely bear all of Dr. 'Y's costs in relation to the abovementioned treatment and therapy.

(y) The parties are to conduct themselves in accordance with, and adhere to, the spirit of this Order, and shall do all things and take all steps necessary to give effect to the court's intentions underlying the Order. Such steps and actions include and are not limited to facilitating the access / contact time ordered, attending and participating in the Therapy Sessions, complying with the recommendations of Dr. 'Y', and cooperating with all other parties who may be involved, including but not limited to Dr. 'Y' and Dr. 'X'.

(z) There shall be liberty to apply.

200 I would end this section by stating that the orders I have made above were largely based on a set of draft orders proposed by the Father³¹, save for some material variations, for which I now give my reasons.

201 First, the Father had proposed that I made orders binding on BF. These include (i) injunctive orders such as ordering BF not to do anything to impede, disrupt, obstruct, undermine and / or hinder the Plaintiff's access time with the Children and (ii) specific performance requiring BF to attend counselling sessions and therapy with Dr. 'Y'. In theory, these orders appear necessary to promote the Children's best interests and welfare. However, I declined to make such orders as the High Court in *CLB v CLC* [2022] SGHCF 3 alluded at [37] that it frowned upon making orders binding on third parties who were non-parties to a proceeding. As intertwined as BF was in the Children's and

³¹ See letter to court from Father's counsel dated 15 March 2022

Mother's lives, I am of the view that unless BF was a party to the proceedings, no *in personam* order should be made against him, as otherwise he would not be given an opportunity to be heard and state his case. This would be a clear breach of natural justice. However, such considerations did not apply to the Mother. As a parent, she has a personal responsibility to place the interests of the Children first, and it is in the interests of justice that she takes personal ownership of the matter by getting BF's (now married to the Mother) buy-in into restoring the Children's relationship with the Father. My orders therefore enabled and placed a personal obligation on the Mother to see that this desired outcome is reached.

202 Second, the Father had also suggested that Dr. 'Y' be given the powers to unilaterally review and adjust, if necessary, the Parent's individual access with the Children at Stages 3 and 4 respectively, if in her professional opinion such adjustments are warranted. Again, these suggestions may have been made with the best intentions, allowing healing to take place in accordance with the best laid plans of a medical professional most suited to make such recommendations. However, making such orders would mean that the court will effectively be delegating its statutory powers to make orders relating to custody of children to Dr. 'Y', who does not have such powers in law. Whilst Dr. 'Y' brings to the table her valuable professional medical opinion, the powers to make binding orders on matters relating to custody must remain vested in the court, as provided for by statute. As such, I carefully worded my orders to give Dr. 'Y' the liberty to make any recommendations as she deems necessary. Read with my order giving the Parties liberty to apply, this means that the Court will ultimately retain oversight of the Children's custody matters should further adjudication be required.

203 Finally, the Father also asked that payment of all the fees relating to the treatment given by Dr. ‘Y’ be borne entirely by the Mother on a reimbursement basis. This suggests that the Father has the means to first pay the necessary accounts so that treatment and therapy will not be delayed on account of non-payment of fees. For reasons which I gave in [192] – [193] above, I declined to place the burden of paying for all of these fees on the Mother.

Costs

204 It is trite that costs follow the event. On this basis, the Father having substantially succeeded in his application, sought to recover costs from the Mother, who is legally aided. As cost orders against a legally aided person are not frequently made in practice, I invited the Parties to make further written submissions on this point, specifically on whether the Mother had acted improperly by defending these proceedings. My decision on costs is therefore reserved.

Conclusion

205 I would end by saying that my orders above were made not to penalise either of the Parties, whether financially or emotionally, but to promote the family’s healing through therapeutic justice. The Parties should avoid looking at the past in a fault-finding exercise as what is already done cannot be undone. Instead, the Parties should look forward to the future in the spirit of problem-solving and focus on promoting the Children’s welfare.

206 Difficult as it may be, the Children’s upcoming transition could be eased significantly by the adults in their lives. They would do well by redirecting their emotions and concerns for the Children toward a joint pursuit of their best interests. To be clear, I am not, and cannot be forcing the Children to love the

Father against their wishes. However, I do want to take them off the path of permanent estrangement from the Father as that will not be in the Children's best interests.

207 If the Parties and the other relevant adults in the Children's lives are able to cooperate, the Children would be able to receive every aspect of love, care, and attention through the said adults' varied and complementary roles in the Children's lives. With that, the Children will flourish. The adults, on their part, in jointly prioritising the Children's welfare and happiness above their own, would have the satisfaction of looking to their long term development and watching them grow up.



Clement Yong
District Judge



Johnson Loo Teck Lee and Lew Zi Qi (Drew & Napier LLC)
for the plaintiff;
Poh Jun Zhe, Malcus (Chung Ting Fai & Co.)
for the defendant.
