

INDISPENSABLE REFORMS TO MALAYSIA'S NON-MUSLIM FAMILY LAW LEGISLATION

A) ABOUT MYSELF, MY SOCIAL CAUSE AND HOW MY REGISTERED SOCIETY CAN CONTRIBUTE TO THE RAKYAT THROUGH THE GOVERNMENT'S HELP

- 1) I am working as an in-house counsel, and I had practiced as a corporate commercial, conveyancing and litigation solicitor before. I had incepted a charitable society registered under the Societies Act 1966 called the Pertubuhan Kebajikan Ibubapa Tunggal Kanak-Kanak Neurodivergen Kuala Lumpur ("**Society**") where the objectives of the Society include inter alia, advocating for and defending the rights of single parents in non-Muslim family courts pertaining to assets division; and improving the standard of living for single parents, especially those with autistic children.
- 2) We need to bring to the government's urgent attention that many women are trapped in "marriages" (marriages which are on paper only, and these are not actually real marriages) with abusive, absent or philandering husbands and some unfaithful husbands even transmit sexual diseases to their estranged wives in that the transmitted sexual diseases had caused the wives' wombs to be removed. All these horrendous hardship circumstances arise because the average Malaysian consists of poor & middle-class people who are trapped by soulless and lifeless marriages as you can never guarantee that out of court settlements may work for both parties and expensive long drawn divorces are only for those who are financially well-off whereas the majority of Malaysians are comprised of either the B40, M40, blue-collared workers or white collared workers; where eking out a living itself with children (may even consist of OKU children as the number of neurodivergent or autistic children are on the rise) is a constant challenge – the average Malaysian on the street definitely cannot afford such expensive legal fees. In addition, there are also wives or husbands who are left high and dry with no financial redress or is left with unfair or partial assets division orders meted out by the family court judge who is after all, human in the sense that their decisions may have gross and substantial errors due to negligence or incompetence, or be tainted with illegality or influenced by bribes which are near impossible to prove.
- 3) Presently, for non-Muslim divorces, the husband and wife just only have two (2) options which is; to either go through a contested divorce petition in non-Muslim family courts or settle out of court through a joint petition for divorce.
- 4) In addition, non-disclosure or fraudulent concealment of matrimonial assets subject to division has always been a prevalent problem which remains unsolved as to date but for which continues to have serious and far-reaching implications and consequences in terms of livelihood for the afflicted spouse(s) involved.
- 5) By right, in order to address and solve the failures, shortcomings, loopholes and anomalies of this current non-Muslim family court system, the rakyat who is the taxpayers of the country should have a third option amenable to them

which is to let computerised systems via a mobile application routed to certain governmental authorities ("**App**") calculate how the matrimonial assets are to be divided and for which is able to accurately identify and precisely ascertain the exact matrimonial assets subject to division so that the dishonest spouse(s) can no longer take advantage of disclosure legislation loopholes to his or her advantage to the other spouse's detriment. This is also in consonance with the government's digitalization efforts where the rakyat should always have the additional alternative to implement matters online; rather than just solely be confined to doing manual and painstaking physical implementation measures. With the advent of a technologically savvy and paperless society, the rakyat need not waste any more money, time costs and resources unnecessarily by going up and down the court and weaving through Malaysia's horrendous traffic jams and the intricacies of technical legal procedures in Malaysian non-Muslim family courts. As such, we are proposing and campaigning for the government to implement the idea of a family law app where Malaysians are able to download a user-friendly cum layman friendly app ("**App**").

- 6) According to current family law, in the very first place, having the "human touch" in deciding upon issues of assets division in divorce cases is actually prohibited by the Law Reform (Marriage & Divorce) Act 1976 ("**LRA**") itself.
- 7) In respect of the above-mentioned, questions of assets division is actually solely predicated just upon purely mathematical factors of financial contribution and contribution in-kind (based upon factual issues such as taking care of the household & the family and the duration of the marriage) only.
- 8) Meaning, human discretion is completely unnecessary in the very first place and it is obviously more fair, safe and accurate to let computers decide on matters of assets division in divorces as human judges are fallible & their decisions may be vitiated or influenced by incompetence, gross misdirection of law, bribes or undue influence.
- 9) This proposed App is a free and user-friendly family law app which is to be owned by our Society where the audited accounts is subject to strict monitoring & surveillance by the Registrar of Societies and is licensed to the government (as a licensee) to regulate matters of asset division for non-Muslims in divorce matters. It is pertinent to note here that in order to prevent unjust enrichment of government cronies at the expense of the rakyat through direct awards with no open tenders and lack of transparency in the competitive bidding process to appoint a suitable mobile app provider, it is not recommended for the government to be the owner of the said App's intellectual property rights.
- 10) For the record, neither I nor my Society is trained in information technology and neither do we have any relatives, friends or family members (whether this be immediate or non-immediate family members) who own or has any commercial interest in or are employed by any mobile application service provider companies. In relation thereof, if the proposed reforms herein and the App are accepted to be enacted and implemented in Malaysia respectively, there should be open tenders and requests for proposals plus complete transparency in all procurement processes before any awards of any projects in relation to the App

are implemented, as all eyes will be on this App's setting-up, in view that this idea of having an assets division App to regulate divorces is novel in the world. In addition, only those mobile app providers with proven commendable track records, achievements, accolades, who has been long established in the industry and who has the requisite experience dealing with governmental authorities in such great magnitude projects should be shortlisted instead of technology start-up companies.

- 11) As per the attached supporting documentation, we had appeared in press conferences before with activists; Uncle Kentang and Siti Kasim where both of them supports the furthering of the said philanthropical cause.

B. A SHORT INTRODUCTION OF HOW THIS APP WORKS

- 1) This App is to be regulated by and be subject to the supervision, surveillance and monitoring of a governmental authority designated by the government ("**Supervisory Body**") and this App is routed to governmental authorities like the land offices, tax authorities, banks, Bursa Malaysia and the Companies Commission of Malaysia where –
 - (i) The spouse of the individual is able to ascertain and have real time access to the complete list of landed assets belonging to the other spouse [provided that these are registered under the name or joint name(s) of the respective spouse and is not beneficially owned by third parties) where the parties need not worry anymore about fraudulent disclosure or non-disclosure, which are pitfalls or loopholes which remain unresolved in the current non-Muslim family court system;
 - (ii) Husband & wife are able to submit proof of their contribution to each and every landed asset(s) through housing loan instalments, e-wallet statements, bank statements, stamped sale & purchase agreements and live videos of groceries purchased through morning or night markets and the cost thereof; and these proofs of contribution are subject to fool-proof verification by the App and the governmental bodies concerned such as the banks, e-wallet providers, stamp offices and etc.);
 - (iii) the App is able to expeditiously and speedily make a just and accurate order for division of landed assets (for example 60% of the property is to be owned by the husband and the remaining 40% is to be owned by the wife) ("**Assets Division Order**") as all entries are already automatically uploaded, verified and computerized. Subsequently, this App can even ensure that division orders are effectively and concretely enforced due to the following: -
 - (a) the land offices will automatically be alerted and prohibit any transfer, disposition or charge of landed matrimonial assets

unless such sale is in accordance with the Assets Division Order issued by the App whereas any fraudulent sale, transfer or disposition of the landed assets designed to deprive the other spouse of just assets division is unable to proceed unless spousal consent is obtained;

- (b) where the landed properties are ordered to be sold and transferred to third party purchasers pursuant to the Assets Division Order and the proceeds thereof are to be allocated accordingly to only the husband and wife (**'Sale & Apportionment'**) and not to any third parties, this transfer will be overseen and certified by the authorised personnel from the Supervisory Body;
- (c) whereas where the landed properties are to be apportioned to the husband and wife (for example, the property is currently wholly owned by the husband but is ordered by the App to be apportioned to the husband and wife in equal ownership of 50% each) (**"Apportionment"**), this transfer will also be overseen and certified by the authorised personnel from the Supervisory Body;
- (d) the App will set out in detail; the landed property's full transactional history of all past dealings in chronological order which should include the historical transaction history prior to the registration of the marriage, whether this be granting of leases, entry or withdrawal of caveats, charging or assignment of the land and etc.; and
- (e) pursuant to the assets division order issued by the App, effective enforcement of payment can be done through crediting and debiting of bank accounts as the App is routed to the couple's bank accounts. This means that upon the expiry of thirty (30) days from the date of the issuance of the assets division order, if the Apportionment still has not been done or if the Sale & Apportionment is still not completed within forty five (45) days from the date of issuance of the assets division order, the husband's bank accounts (where there are sufficient monies inside such bank accounts) will be debited accordingly to pay to the wife her entitlements based on the fair market value of the property; after deducting the redemption sum due to the financier bank and administrative costs due to the Supervisory Body.

C. TITLE AND PREAMBLE ABOUT THE LRA

- 1) The glaring pitfalls in the current legislation enables deviant and dishonest ex-spouses to take advantage of the loopholes in the LRA in terms of making fraudulent or wilful non-disclosure of assets, in order to deprive the other spouse's just and equitable entitlement to the matrimonial assets. At the most,

the only real consequence of fraudulent or wilful non-disclosure is only that an adverse inference may be invoked against the said deviant spouse – this in itself is not sufficient as an effective deterrent against blatant non-compliance with the discovery order judgement. It is also pertinent to note here that if a spouse seeking for “discovery” does not have any inkling at all on the exact properties owned by the other spouse, the court will surely disallow such application for discovery on the basis that “no fishing expeditions are allowed and that the applicant spouse has to be specific on the type of discovery that is required. In addition, there is a very real risk of judges’ decisions being tainted or vitiated with corruption, bias, negligence and recklessness as judges can get away scot-free with judgments which are an affront to common sense as bribery is near impossible to prove.

- 2) Pertaining to the background of how the LRA came to be implemented in Malaysia, the LRA actually represents a major reform in the legal framework governing non-Muslim marriages and divorces. This act came into effect on 1 March 1982, and its main objective was to standardize and regulate the laws surrounding marriage and divorce among non-Muslims, replacing several outdated colonial-era laws that had been in place. In this respect, our government should be cognizant of the fact that it is imperative that legislation needs to be amended and updated in order to keep abreast with technological advancements and must be able to meet societal needs and fulfill requirements to give spouses the much urgent financial relief they need to overcome the vicissitudes of life.
- 3) The government had 15 December 2018, enforced commendable and laudable ground breaking amendments to the LRA through giving contribution-in-kind equal consideration in terms of assets division and making it mandatory for a father or a mother to continue to pay child maintenance where the child is under physical or mental disability, or is pursuing further or higher education or training, on the ceasing of such disability or completion of such further or higher education or training, whichever is the later; is a testament to the fact that the government does and should continue to ensure that laws are amended to be relevant and effective to safeguard the rakyat’s rights.

D. HIGHLIGHT ANY ISSUES OR PROBLEMS WITH THE CURRENT ACT THAT THE AMENDMENT SEEKS TO ADDRESS

- 1) The current Act gives too much discretion to a sole judge. The determination for Assets division should only take purely mathematical considerations into account and decisions arising therefrom should not be vitiated with undue influence, bribes or human emotions.
- 2) It will not be practicable for every spouse to make an application to the court for discovery of the complete list of assets of the other spouse under Order 24 of the Rules of Court 2012 as discovery in itself is an interlocutory application which will need substantial legal fees to be forked out by financially challenged estranged spouses. The aforementioned pricey discovery application, coupled together with expensive legal fees payable to divorce lawyers for contested single petitions for divorce which will need a minimum of approximately RM180,000 to RM230,000 for the contentious

single petition divorce cases alone will exacerbate the estranged couple's already dire financial straits and predicament. Moreover, there will be hectic and arduous court proceedings which will eat into the time costs of estranged spouses who are salaried employees, not to mention mileage costs, transportation costs, administrative costs and sadly, time costs which may even endanger the lives of single working parents and the OKU children which are forced to be left alone at home or with aged parents whilst the .

- 3) Moreover, in any event, even after the application for discovery is approved by the court, there is no guarantee that the said spouse will honestly disclose his or her assets. Assuming that either spouse does not comply with the discovery order issued by the judge to fully disclose all matrimonial assets, there will be very little to zero assets for the family court judge to order for division in a divorce proceeding, so the estranged spouse would have come to square one and all efforts, time costs and legal fees expended would be to no avail but operates to just only worsen the problems faced by the warring couple. In actual practice and from the practicability and viability perspectives, invoking the adverse inference presumption under Section 114 (g) of the Evidence Act also serves little to no purpose as this 'adverse inference' does little or nothing at all to help alleviate the financial woes of the spouse who is not in default. At the end of the day, only the lawyers are happy as the parties' solicitors entitlement to charge exorbitant legal fees are always intact, irrespective whether the lawyers' clients are happy or not with the judge's decision and the outcome of the case.

E. DETAILED PROPOSALS TO MALAYSIA'S LEGISLATION

a. Assets Division

1. (a) Upon any legal registration of non-Muslim marriages in any Jabatan Pendaftaran Negara ("**JPN**") branches, it is compulsory to download the App then and there and for both the husband and wife to click "Accept" on the App's terms and conditions. Either the husband or the wife may choose to un-install or re-install the App at any time. The current status now is that "divorces" must be finalized together with "assets division". In the case law of Manokaram Subramaniam v. Ranjid Kaur Nata Singh [2008] 6 CLJ 209, the Federal Court held that it is clearly provided that the power of the court to make an order for the division of matrimonial assets can only be exercised when granting decree of divorce and at no later stage. The aforementioned principle is truly ridiculous, does not make sense and is impracticable as it inevitably complicates and makes things arduous for the couple to move on with their lives as divorces together with assets division may take up to 3 to 4 years to be finalized. With this App, the "divorce" can wait for 4 years or more to be finalized but this will not affect the "assets division" which can be done way faster in just less than less than 60 days from the date any party press on the "file for assets division" button.
- (b) After the App has been downloaded during the JPN formal registration ceremony, either the husband or wife or even both of them can choose to un-install the App at any time, being rest assured that if the marriage is estranged at any point in time, the couple can re-install the App with the assurance that all information in relation to bank statements, any Touch & Go statements, housing loans and credit card statements (collectively known as "**Bank & Payment Gateway Providers' Statements**") are all captured and are always accurate, complete and updated in real time without the couple needing

to do anything at all.

- (c) Once the App is re-installed on either or both the husband or wife's mobile phone, either of the spouses can see both husband and wife's Bank & Payment Gateway Providers' Statements.
 - (d) Pertaining to "contribution in kind" in terms of groceries bought in cash from supermarkets/grocery stores ("**Cash Payment of Groceries Proof**"), at the moment, this is unable to be automatically captured by the App. In consequence of which, it is important for the husband or wife to take photos of the groceries receipts upon purchase and upload on the App. For individuals making cash purchases in grocery stores or supermarkets, an e-invoice is not usually required. Instead, customers receive a regular printed receipt at the point-of-sale system. In most cases, e-invoices are targeted more towards business-to-business (B2B) transactions. It is recommended to the government that the e-invoicing system should also be included for individuals making cash purchases to facilitate convenience for the husband and wife for purposes of uploading contribution-in-kind receipts on the App.
 - (e) In addition, the App also does not capture automatically any "proof" of purchases of cash transactions in pasar malam, pasar pagi or any wet markets where fish, chicken, veggies, seafood and etc. are bought by housewives or house husbands ("**Market Proof of Purchase**") – as such, this proof of purchases must also be uploaded. The couple are given flexibility in terms of timelines to upload any such Cash Payment of Groceries Proof and Market Proof of Purchase at any point in time within five (5) years after the Assets Division Order has been issued and executed. However, the risk of such late uploading will of course be borne by the said husband or wife whom had delayed in uploading as there is a real risk of dissipation of assets for which the husband or wife whom chose to sleep on their rights must rightfully be responsible for.
 - (f) Under sub-section (1) of Section 106 of the Law Reform Act, "no person shall petition for divorce, except under sections 51 and 52, unless he or she has first referred the matrimonial difficulty to a conciliatory body and that body has certified that it has failed to reconcile the parties. During the said conciliatory session, both the husband and wife will be trained on their rights pertaining to the App and be given layman friendly on the spot training pertaining to how to use the App and fully utilize its functions - assuming that both or either one of the spouses have agreed to use the App, the App's fully automated and computerized system administered by the relevant governmental agencies ("**Assets Decider**") and not the family court, will have the sole jurisdiction to decide on the issue of assets division separately, concurrently and immediately without needing to be delayed by the ongoing divorce proceedings (for the avoidance of doubt, the court proceedings are just solely confined to only the issue of whether the couple should divorce or not due to irreconcilable differences) to be finalized years down the road.
2. In view that everything will be computerized and is thus accurate, issues of assets division will be expeditiously dealt with and be neutral and fair. In addition, the spouses need not painstakingly and laboriously wait for

the decree nisi for divorce to be made final before the assets can be divided. The current situation now where you can only divide the assets upon the family court issuing the judgment in a divorce petition adversely, unjustifiably and unwarrantedly affect the spouses' livelihood and right to accommodation in the face of protracted, tedious and arduous divorce court proceedings. As such, for each spouse to avail themselves of the urgently needed financial redress (and not be made to wait for the family court to decide on the assets division and/or to incur more legal costs for court actions in enforcement proceedings to execute the judgement), amendments to the law should be made to enable the Assets Decider to garnish the bank monies in the relevant spouse's bank account to credit the other spouse's bank account to alleviate the problem of spouses who are deviant in their payment obligations.

3. At the same time, neither spouse is able to take advantage of the loophole in Malaysia's family law legislation landscape (which gives far too much power and discretion in a sole family court judge) to bribe any family court judge by engaging a conduit lawyer who is well connected to the said judge. In addition, not every spouse in Malaysia is financially well endowed to be able to afford any law firm's fees which are sure to be substantial, to some extent. When bribes are hard to prove, not only is the aggrieved spouse without redress, there is also no fair play & competition for law firms with no such "bribe" or "connections" monopoly power.
4. The parties are free to enter into a joint petition where both had agreed to the divorce and both had agreed to the proportion and specifics of the assets division. The parties are also free to have the other alternative of deciding to just only let the family court determine whether there has been an irretrievable breakdown in the marriage which justifies the marriage to be dissolved (parties to officially divorce) and for all matters relating to assets division to be solely decided by the Assets Decider.
5. Before registering for marriage and/or before divorcing in the family court should make full and frank disclosure of the full and complete list of assets to the Assets Decider who will then seek verification from regulatory authorities such as regulatory authorities such as Companies Commission of Malaysia ("**CCM**"), Bursa Malaysia, land offices, local city councils and any banks (collectively referred to as "**the Bodies**") – no certificate of marriage should be issued by JPN and no registration of divorce decrees issued by the family court should be registered in JPN's computer systems until and unless the Assets Decider is satisfied that full and frank disclosure has been made of the complete list of assets belonging to each spouse after due verification is made together with the Bodies.
6. The decisions of the Assets Decider shall be final and binding upon the spouses to prevent endless and frivolous litigation.

b. DEFINITION OF ASSETS

The Assets Decider will only recognise the marital home and assets where the nexus appears to be that such assets are for the couple's joint enjoyment and use. If there is no enjoyment and/or use for the current common purpose, then such assets will not qualify as matrimonial assets subject to division as the nexus test may not be satisfied. As such, future funds such as EPF, insurance and pension are not liable to be divided.

c. BANK ACCOUNTS

1. The Bodies have to implement a system where JPN is able to notify the Bodies of the identities of anyone whose marriages or divorces are registered under JPN. Subsequently, the Bodies must have systems enabled to give full details of each spouse's assets to his or her wife or husband during the course of the marriage and divorce proceedings if and once applicable; such as the amount and type of shares held by the spouse in private limited companies for CCM, the type & details of landed assets held by the spouse in any lands situated in Malaysia, any Central Depository System ("**CDS**") accounts in Bursa Malaysia held by the spouse and the account numbers and current balance of the amounts held in any savings accounts, joint accounts, current accounts & fixed deposit accounts in any banks in Malaysia ("**Banking Information**").
2. The Financial Services Act 2013 has to be amended to allow the spouses and the Assets Decider access to information on the Banking Information as at the moment, there is no way to ascertain whether the information furnished by the spouse is truthful or not and there may be wilful or fraudulent non-disclosure. Section 134(1)(a) of the Financial Services Act 2013 provides that a financial institution or any of its directors or officers may for such purpose or in such circumstances as set out in the first column of Schedule 11, disclose any document or information relating to the affairs or account of its customer to such persons specified in the second column of that Schedule. Whereas paragraph 6, Schedule 11 of the said Act provides that the banks may disclose such documents or information in compliance with a court order made by a court not lower than a Sessions Court, a Syariah Subordinate Court, a Syariah High Court or a Syariah Appeal Court. Most unfortunately, the said paragraph 6 is too vaguely worded and does not give much remedy to the litigant spouses seeking for full and frank disclosure of their ex-spouse's bank account details in a family court (which is why you hardly ever see successful attempts by ex-spouses in applying to court to subpoena banks to fully disclose the amounts of their ex-spouses Banking Information) and again, the litigants are subject to the mercy and sole discretion of the family court judge where you cannot dispense with the possibility that the absolute discretion of the judge will not be abused or whether the judge will do the right thing or not by issuing such court order as such court order is in the very first place, not mandatory to begin with.
3. Invoking adverse inference against the dishonest spouse under Section 114(g) of the Evidence Act 1950 for failure to fully disclose their Banking Information and for the spouse seeking full and frank disclosure of all matrimonial assets to initiate discovery proceedings under Order 24 rule 3 of the Rules of Court 2012 in the High Court are definitely insufficient and does not provide the redress needed and again, not everyone can afford legal fees and administrative and mileage costs of protracted court cases.
4. Lottery winnings will be subject to division if pooled inside the joint banking accounts and if any of the spouses is able to show the corresponding bank statements and also the contemporaneous receipts where the money has been expended towards the matrimonial home and/or the matrimonial assets in terms of painting, renovation, purchase of furniture, buying of night market groceries (spouses to upload photos or videos as proof as not all night or morning markets can practicably have receipts), payment of utilities and any sort of expenditure for common enjoyment of the couple and family.

d. SHARES

1. Currently, subject to proof of contribution in kind or monetary contribution, shares in private limited companies may qualify to fall within the purview

of matrimonial assets subject to division in a divorce. Contribution in kind may mean working in the companies, contributing expertise and technical know-how to the companies or even taking loans from banks for the benefit of the companies as some examples for illustration purposes. Whereas “monetary contributions” mean that the spouse has paid for the consideration of the shares.

2. Usually, what the spouses will do in family court is to expend considerable time costs, mileage and administrative costs to give testimony in court and subpoena other applicable witnesses (and pay such witnesses their costs for each day of testimony) to corroborate whether there has been contribution in kind or not from the spouse who is seeking to have a division of the shares in the companies.
3. To prevent such wasteful legal fees, time costs and expenditure being incurred, this App will recognize a certificate which is collectively verified by the shareholders, directors and key management/personnel/staff of the companies (“**Shares Contribution Verifiers**”) on an annual basis confirming the veracity of the below details (for both spouses) in the format & template fixed by Assets Decider (“**Annual Certification**”) containing the below information: -
 - (i) whether the spouse is working as a salaried employee in the company and the salary thereof;
 - (ii) whether EPF contributions were made;
 - (iii) his or her job scope & designation, skill sets and contribution to the company;
 - (iv) whether he or she had taken loans in her individual capacity for the benefit of the company;
 - (v) who is the managing director of the company;
 - (vi) who has the power to directly or indirectly appoint or remove a director who holds a majority of the voting rights at the meeting of directors;
 - (vii) who is the person controlling the company’s administration, shareholder reserved matters and board reserved matters;
 - (viii) who had paid for the consideration of the shares;
 - (ix) who is the beneficial owner of the shares; and
 - (x) whether he or she was a guarantor for the company.
4. Based upon the said Annual Certification, it is suggested that the below formula be applied for women who both contribute as breadwinner in relation to working for the companies in which they or their husbands have shares in and who also is a mother to the children (irrespective whether there are parents or in laws or maids or relatives who take care of the children).

Percentage of apportionment	Duration of marriage (≥ 4 years)	Annual Certification on a scale from 1 to 10 (1, being the lowest and 10, being the highest)	No. of Children (≥ 1)***
0%	Yes/No	0	Yes/No
3%	Yes	1 - 2	No
3%	No	1 - 2	Yes
2%	No	1 - 2	No
5%	Yes	1 - 2	Yes
7%	Yes	3 - 4	No
7%	No	3 - 4	Yes
9%	Yes	3 - 4	Yes
6%	No	3 - 4	No
11%	Yes	5 - 6	No
11%	No	5 - 6	Yes
13%	Yes	5 - 6	Yes
10%	No	5 - 6	No
20%	Yes	6 - 7	No
20%	No	6 - 7	Yes
25%	Yes	6 - 7	Yes
15%	No	6 - 7	No
30%	Yes	7 - 8	No
30%	No	7 - 8	Yes
35%	Yes	7 - 8	Yes
28%	No	7 - 8	No
40%	Yes	8 - 9	No
40%	No	8 - 9	Yes
42%	Yes	8 - 9	Yes
38%	No	8 - 9	No
45%	Yes	9 - 10	No
45%	No	9 - 10	Yes
50%	Yes	9 - 10	Yes
43%	No	9 - 10	No

5. It is pertinent to note that, the current loopholes in the administration of justice for Malaysian family law make it really easy for dishonest spouses to collude with corrupt conduit lawyers & corrupt recipient judges to draw up fabricated so-called “trust deeds” to allege that the said shares do not actually belong to the spouse in whose name the shares are registered in; and actually, belongs to the devious spouse’s father, mother, sister or brother for example. Subsequently, such fraudulent trust deeds will then be admitted into court as evidence in order to deprive the other hapless spouse of a just and equitable division of the shares. This is because, shares which are held on trust do not in actual fact belong to the spouse in whose name it was registered in and thus, cannot be divided in a family court.
6. In order to eradicate such loopholes which are susceptible to abuse and bribery, may we suggest that the rules issued by CCM on disclosure of beneficial ownership of shares be amended accordingly, as currently, only the CCM and the law enforcement agencies like Bank Negara has access to the information disclosed by the spouse (the registered holder of shares) on the ultimate beneficial ownership of shares which are purportedly or allegedly “held on trust”. We would suggest that spouses seeking a just division of the assets in a divorce also have the right to know through written notification as to whether any matrimonial assets in the form of shares are purportedly held on “trust.”

7. With regards to Central Depository System ("**CDS**") accounts, spouses who invest and trade in securities listed on Bursa Malaysia Securities Berhad ("**Bursa Depository**") must open CDS accounts with any Authorised Depository Agents ("**ADAs**") which are stockbroking companies in Malaysia regulated by Bursa Depository.
8. Pertaining to the current situation in relation to disclosure of the balances of monies inside the aforesaid CDS accounts, it is disappointing that again, to the detriment of the spouse who needs expeditious financial redress in a family court during divorce proceedings, it is also not mandatory for a Spouse to disclose his balance of monies inside any of his CDS accounts to his or her ex-wife or ex-husband. As it is, the ADAs are only obligated to disclose under certain permitted circumstances under Section 45 of the Securities Industry (Central Depositories) Act 1991 (Act 453) and Rule 5.08(2) of the Rules of Bursa Malaysia Depository Sdn Bhd; where nothing compulsorily obligates either the Spouse or the ADA to disclose such information pertaining to the CDS accounts to any ex-spouse litigating in a family court.
9. It is suggested that the spouse seeking just division of the proceeds in CDS accounts have the right to compel the ADAs to disclose through the App, the full and exact details of the balances inside the CDS accounts (provided that these are just limited to statements of accounts on debiting or crediting which are made after the date of marriage) held by the respective spouse and also those CDS accounts which are registered under the names of nominees or trustees for which the respective spouse is the beneficial owner; as the said spouse has the right to know in a divorce proceeding where full and frank disclosure should be made to ensure that an equitable division of assets can be implemented.

e. SHARES HELD ON TRUST

1. There will be assets "acquired" before, at or after the marriage and registered under the name of either spouse, for which the other spouse or both spouses may or may not have contributed in kind or in money such as gifts or inheritance from parents, lottery money and etc. ("**Gifted Assets**") – there are spouses which do not want the Gifted Assets to be subject to lawful division in a divorce and thus, resorted to dishonest and fraudulent ways such as falsely alleging that the Gifted Assets are held on "trust" or by providing falsified or fake "trust deeds" which never existed but were newly drawn up to deceive. To prevent the aforesaid fraud, in relation to shares, landed properties and any other applicable matrimonial assets, all Trust Deeds shall be registered with the CCM and Assets Decider as per the App's format and must have a serial number registered in order to be fool-proof evidence. In relation to shares, there should be a fixed format in the form of a declaration cum trust deed where any change in the trust arrangement has to be notified to the other spouse, the beneficiary of the shares and the Assets Decider.
2. We would propose that any shares which are purportedly held on trust by the husband on behalf of his father, mother, siblings or siblings in law after his wife has contributed to the increase in shares will still be subject to division. *In this respect, let us take an example for illustration. The shares were registered in the name of the husband initially in 2005 before the marriage was registered in 2007. Since 2009, the wife has always been contributing in-kind for the advancement of the companies through her working for the companies and giving her much valued expertise as an employee. Subsequently, in 2011, the husband then executed a trust deed where he declares that he is holding the shares on trust for his mother. The shares is still liable to be divided and his wife should get a just division of the value of the shares.*

3. In the event that any party such as the husband for example, wishes to retain any shares which has been divided by the App, then the husband is required to pay the wife, cash which is equivalent to the value of the shares. For this purpose, the value of such shares is to be valued by an independent valuer appointed by the Assets Decider. The costs of such valuation are to be borne equally by the spouses.
4. If such proceeds are not paid to the wife within fourteen (14) days from the date of the App order, then the monies in the banking accounts of the husband shall be garnished to be given to the wife.
5. In addition, after the proceeds is duly paid to wife, the wife shall expeditiously within a certain fixed time frame resign as a director (the corresponding Section 58 Companies Act form shall be uploaded to the App) and transfer her shares to the husband (the updated Section 78 and 51 of the Companies Act form shall be uploaded to the App). And in turn, the wife shall be released as guarantor and indemnitor, in writing through cancelation of all guarantees and indemnities entered into by her, as guarantor and indemnitor respectively for the companies, given in favour of banks and financial institutions.

f. LANDED PROPERTIES (Sabah land offices and Sarawak land offices are to be excluded for the time being in the initial pilot phase run due to the different land law legislation landscape and can be included later on in due course)

1. In respect of the matrimonial home (the marital home where the spouses and/or their offspring live in), this must be ascertained and uploaded inside the App together. The spouses' monetary contributions, contribution in kind through looking after the family and children, the length of the marriage, the needs of any children from the marriage and any debts which are incurred for the family's benefit such as who pays for the installments of the housing loan and who has taken personal loans from the bank in order to sustain the family are primary considerations in determining the ratio of the assets division – all of which are purely mathematical issues for which the documentary evidence thereof can be uploaded on the App to prevent any fraud or unnecessary protraction of the spouses' time through disputes in court. There may be more than one (1) matrimonial home and there may also be changes in that the matrimonial home is no longer to be considered as a matrimonial home as it has been sold off and the spouses now have a new matrimonial home.
2. Spouses should upload proof of their contribution such as the SPA, loan agreement documentation, proof of payment of the deposits, monthly instalments made toward the bank loans, proof of expenditure on furniture, renovation, whether any properties were charged as security for the matrimonial home, payment for supermarket grocery expenses and payment for groceries and products for the matrimonial home's common use through purchase via online platforms such as Lazada, Shopee and Taobao.
3. "Supervision" of renovations done by contractors is not counted as "contribution" whereas in respect of payment of quit rent, assessment and other utilities such as water, phone bills, electricity and Indah Water, the proof of payment may be uploaded on the App but if this is the only contribution, the couple is to note that the contribution may be considered *de minimis* or minimal if the amounts are way too small.
4. In the very first place, before any couple talks about division of assets, the most important thing for the couple to ascertain or determine first and foremost would be the exact list and sufficient details of the landed properties belonging to the other spouse. In Malaysia, it is unfortunate and to the detriment of the spouses seeking a just division of landed assets, that

there is absolutely no way for any spouse to find out the full and accurate list of landed assets belonging to the other spouse, unless the spouse has sufficient title details for properties with titles (this can currently be found from SPAs, quit rent statements and assessment statements).

5. Whereas for landed properties where the title has not yet been issued, only the developers will have the particulars of the title and the registered owners but the banks are only authorised to release such information to certain parties such as the financier's solicitors in housing loan transactions for example and are definitely not authorised to release such information to any spouse in the event of any divorce proceedings. We should look into roping-in the help of land offices and local city councils to devise a system which is able to ascertain the complete list of lands or properties together with the details of any encumbrances; held by any spouse by just only typing in the full name, IC number and marriage certificate number (issued by JPN) of the said spouse ("**Land Search System**"). This Land Search System will also greatly benefit the spouses who did not subscribe to use the App but would need to ascertain the full, accurate and complete list of landed properties of the other spouse.
6. Whereas for those spouses who has already subscribed to the App, they will be able to see the complete list of landed assets of the other Spouse as the App is routed to the land offices and the local town councils. This will solve issues of errant spouses refusing to disclose or making dishonest disclosures in respect to his or her landed properties assets in a divorce. The Bodies' official & issued statements, complete with serial numbers on the full particulars of the said landed assets will be deemed as valid for the purposes of both the App and in divorce proceedings in family court, as the case may be.

g. MATRIMONIAL HOME & OTHER LANDED ASSETS (COMPUTATION OF CONTRIBUTION "IN-KIND")

No.	Duration of marriage	With Children? ^{**} (Must be at least one child) – Yes = Y & No = N	Percentage (%)
1	> 5 Years	Y	50
		N	45
2	>3 years to 5 years	Y	40
		N	35
3	> 2 years to 3 years	Y	30
		N	25
4	Less than 2 years	Y	20
		N	15
5	Less than 1 year	Y	10
		N	5

*****At the time of divorce, if any child below the age of 18 is handicapped or is under the category of "Orang Kurang Upaya or OKU", then the App will automatically by default apportion an additional 10% (as in 10% for each OKU child) to the housewife or the house husband (the App is able to determine who is the housewife and house husband from the previous returns lodged via the App) who had been taking care of the child or children, as the case may be, all along.***

1. Any matrimonial assets and matrimonial home should not be sold, transferred or disposed of whether in part or in whole for purposes of dissipation of assets and such prohibition of sale to dissipate should operate at marriage, during marriage, during separation and after divorce proceedings have been incepted. To enforce this prohibition effectively, such sale, transfer or disposal shall not be carried out by any land offices unless the prior written consent of the other spouse has been duly obtained. We should follow our Indonesian counterparts by prohibiting sales of landed assets unless "spousal consent" has been obtained.

2. In Malaysia, although the law provides for freezing injunctions over matrimonial assets to prevent a party from disposing of the marital assets during the separation proceedings under section 102 of the Law Reform (Marriage and Divorce) Act 1976 (“**LRA**”) but most unfortunately, this is not viable for the majority of Malaysians as not all spouses are financially sound to be able to afford expensive legal fees incurred for such applications and it is also a burden to prove the technical elements required in such Mareva injunction proceedings which is the applicant spouse has a good arguable case, the other spouse has assets within the jurisdiction and that there must be solid evidence to prove that there is a real risk of the assets being dissipated or removed by the other spouse before judgment. Furthermore, spouses in Malaysia will also be at the mercy of corrupt judges and lawyers who may even collude with the adversary spouse’s well-connected lawyers. In addition, there is also the risk of engaging incompetent lawyers who fail to plead important facts which is a fatal error in such highly technical court application matters.
3. Even though Malaysian spouses may apply to the court for a “prohibitory order” (this is an order by the court which in essence, prohibits the judgment debtor spouse from effecting any dealing with the landed asset which is ordered by the family court to be sold and the proceeds to be divided. We would reiterate that not every Malaysian spouse is able to afford hefty legal fees to apply to the court to lodge a prohibitory order over the land or immovable property of a judgment debtor spouse, with a view to apply for a writ of seizure and sale of the land or immovable property (Order 47, rules 6 and 7, Rules of Court 2012 and Chapter 2, Part 19, National Land Code 1965).
4. It is suggested that subsequent to the Assets Decider adjudicating upon the rightful assets division and apportionment, the respective land offices will be alerted and act upon the written instructions of the Assets Decider, who will make an order that the asset be divided accordingly. The government should look into an automated system where there is an automatic prohibitory order without the spouse needing to incur substantial legal fees to initiate a court proceeding to apply to the court for such an order.
5. Whereas in relation to landed assets where the Assets Decider has ordered for the spouse to buy-out the other spouse’s share of the landed assets, should such sum not be paid within a certain timeline of thirty (30) days for example, then the monies inside the banking accounts (of any) of such defaulting spouses will be garnished and credited into the accounts of the spouse who is the intended recipient. And we would suggest that no sale of any such land shall become absolute until such sale has been confirmed by an order by the Assets Decider; and any such order shall be sufficient authority for an officer of the Assets Decider to execute in favour of the third-party purchaser at the sale; the appropriate instrument of transfer in the name, and on the behalf, of the judgment debtor spouse.
6. The below mode and method of assets division is proposed, to make it fair and standard across the board so that no spouse will then feel that any judge is unfair/biased for decreeing differing scales to similar situations as this time around, it is an automated system with a fixed formula offering no room for subjectivity in the judges’ judgement or twisting and turning of facts as excuses for such unjust judgement: -

No.	Status of Properties of Husband ("H")*	Status of Properties of Wife ("W")*	Method & Way of Division of the Matrimonial Home ("MH")	Are there other matrimonial assets ("MA") subject to division which Wife Gets?
1	Rich, many properties to his name	Poor, no properties to her name	H's share in the MH shall be transferred to W with the legal fees, stamp duty, registration fees and valuation costs to be borne by the H	No
2	Rich, many properties to his name	Poor, no properties to her name	H's share in the MH shall be transferred to W and H (both to act in the capacity as trustee with the MH not permitted to be sold until the children has reached 18 with the proceeds to be held on trust for the children's tertiary education) with the legal fees, stamp duty, registration fees and valuation costs to be borne equally between the parties	Yes
3	Not rich, there is only 1 MH & no MA	Not rich, there is only 1 MH & no MA	MH is to be sold (no fixed timeline in view that there is only 1 MH and there may be children involved who need a roof over their heads) with the proceeds to be divided between H and W in the proportion allocated by the Assets Divider (registration fees, valuation costs, stamp duty & redemption from the bank to be borne equally by the parties)	No
4	Rich, many properties to his name	Rich, many properties to her name	MH is to be sold with the proceeds to be divided between H and W in the proportion allocated by the Assets Divider (registration fees, valuation costs, stamp duty & redemption from the bank to be borne equally by the parties)	Yes
5	Rich, many properties to his name	Rich, many properties to her name	MH is to be sold with the proceeds to be divided between H and W in the proportion allocated by the Assets Divider (registration fees, valuation costs, stamp duty & redemption from the bank to be borne equally by the parties)	No

** In no way can this be construed as gender specific as this can also be the other way around (depending upon the facts of each situation) as we note that there may also be many house husbands or unemployed husbands who stay at home in Malaysia and their wives are wealthier than them.*

h. LANDED PROPERTIES HELD “ON TRUST”

1. Whereas with regards to landed assets and properties, there may be situations where either Spouse's parents or relatives (“**the Payers**”) had paid for the purchase price (“**Payment**”) of either the matrimonial home (the house which the Parties stayed or lived in on a long-term basis during the duration of the marriage) or any matrimonial assets consisting of landed properties.
2. We had seen many cases where the Payers had intended for such matrimonial home or asset to be marriage gifts to the spouses and do not intend for the spouses to repay the Payers at any point in time but what happened was when the relationship soured and the spouses are headed for divorce, what the dishonest spouse will usually do, as reported in many case laws, is to collude with the Payers to falsely allege that such Payment is actually not a marriage gift but is a loan to the spouses, of which the Payers will expect such loan to be repaid with or without interest or with or without a so-called “loan agreement” in writing.
3. Most of the time, in order to deprive the other spouse of his or her rightful entitlement and in order to thwart justice and the due administration of family law, such unscrupulous spouses will resort to giving false testimony in court and even attempt to adduce falsified documentary evidence in court to be admitted as exhibits (evidence of probative value) through engaging a lawyer who has the right connections to bribe the presiding family court judge.
4. In order to prevent such a loophole to be subject to further abuse by corrupt recipient judges and corrupt conduit lawyers, by right, before such matrimonial home and assets is being registered inside the App, both spouses and the Payer(s) must not only upload the requisite documentary evidence on the App such as bank statements and contemporaneous receipts to substantiate the Payment, all three parties must also agree beforehand in writing as to whether the said Payment is loaned or is intended to be gifted to the couple and upload such written agreement in the standardized format & template required for in the App. Then, all parties will honor such an agreement and not try to deflect or dishonestly deny the existence of such an agreement and unjustifiably catch the other spouse seeking a just division by surprise – in other words, no one should pull the carpet from under someone's feet.
5. If all parties cannot come to an agreement that such Payment is an outright marriage gift to the couple, then the Payer has the right to insist that such Payment is on loan and such loan is to be repaid to the Payer, in the division of such matrimonial asset or matrimonial home. On the other hand, if all spouses and the Payer is in agreement that such Payment need not be repaid as it is to be construed as a gift to celebrate the marriage, then in the event of a divorce, such Payment need not be repaid as it is not to be deemed as a loan from the Payer, and the Payer is thus prevented from renegeing on such an agreement that the Payment does not need to be repaid by the couple.

i. ASSETS ACQUIRED BEFORE THE MARRIAGE BUT SUBSTANTIALLY IMPROVED DURING THE MARRIAGE

1. Section 76(5) of the LRA provides that references to assets acquired during a marriage which is subject to division include assets owned before the marriage by one party which have been substantially improved during the marriage by the other party or by their joint efforts.
2. In relation to landed properties, in order to avail themselves of their rights to division of the said assets, in relation to the proposed App, we would suggest that each spouse has to show their monetary contribution (if any) through valid bank statements and/or receipts that he or she has expended on renovation, painting, purchase of furniture, hiring of maids for cleaning, garden landscaping and repair for the landed assets (collectively referred to as “**Renovations**”) and if applicable, the rental agreements which have been duly stamped complete with the adjudication number issued by Lembaga Hasil subsequent to the said renovation to prove that the value in the said assets have increased due to such “improvements”. Should the other spouse dispute that there is “substantial improvement” in the landed assets due to such “monetary contribution”, the Assets Decider will appoint a valuer/property manager which is duly certified by the Malaysia Board of Valuers, Appraisers and Estate Agents Malaysia and ask for a valuation report to be uploaded, at the costs of both spouses, to be borne equally. Any increase in property value due to such Renovations will constitute “substantial improvements” in view that there may be fluctuating or unprecedented or unforeseeable factors in the near future which may affect the rise or decrease of the property prices, such as the citizens’ buying power, the economy of the country and the political landscape of Malaysia, amongst other factors, so it will not be completely fair to set any strict quantitative threshold in determining what constitutes “substantial improvement” in terms of the value of the landed assets.
3. *As an example for illustration, the condo was purchased free from loan and encumbrances by the husband in 2013 and the condo was registered in the husband’s name for RM350,000 before the couple’s marriage in 2017 but the said condo is now worth RM1,000,000 in terms of market value. The couple does not live in the said condo as their matrimonial home as this condo is strictly for investment purposes. The wife had subsequently expended on furniture and fittings to the amount of RM10,000 and renovation worth RM30,000 in 2018. Currently, the rent of the property has increased from RM3,600 to RM4,000 due to the furniture alone as now, the condo is considered “furnished” for all intents and purposes of the current property market. The App will recognize this situation as to be within the purview of “substantial improvement”.*
4. Whereas in relation to shares in private limited companies, the Shares Contribution Verifiers will be in the best position to determine whether there has been any “substantial improvement” in the shares of the private limited companies.

j. GIFTS GIVEN BY HUSBAND TO WIFE AND VICE-VERSA

1. Many case laws had reported that divorce proceedings could get really nasty to the extent that some couples even asked for the gifts given during marriage to be “returned” to them, such as jewelry and designer handbags just to name a few examples. Such “assets” do not count as “assets” subject to division in a divorce.
2. But in relation to this, it is pertinent to set out specifically in the App as to what exactly are the payments of monies which are actually gifts to the other spouse and is not intended to be returned back to the spouse giving such payments, in order to prevent future disputes, dishonest representations and bare denials from any spouse later on in divorce.

If there are any cars or houses which are not for the common use and enjoyment of the spouses but is purely and completely personal for the use of just only one (1) spouse, any loans advanced by the husband (or the wife as the case may) will not be repaid back to him in a divorce. *As an example for illustration, here is how the App works – if the husband had made payment to the bank for the down payment of a car which is exclusively for the wife's use and for which the wife is the only one making monthly instalment payments to the bank all along, then such car hire purchase agreement, evidence of payment to the bank (whether through the bank auto-debiting the wife's banking account or through the wife making monthly payments to the bank through online telegraphic transfer) must be uploaded by the wife on the App and the car will then not be subject to division in a divorce and belong solely to the wife*

F. DETAILED EXPLANATION OF PROPOSED AMENDMENTS

- 1) During the subsistence of the marriage, no landed properties belonging solely to any spouse can be transferred or disposed, unless spousal consent has been obtained – land offices will automatically prohibit such transactions.
- 2) After spousal consent has been obtained, if it falls within the preceding three (3) years before the divorce petition is filed, the land will still belong to the third-party purchaser but the “proceeds” have to be returned by the seller spouse to the pool of matrimonial assets subject to division, failing which it will be a debt due from the defaulting spouse and he cannot apply to have his marital records updated in JPN.
- 3) **Proposed Amendments to Sections 334-339 of the National Land Code –**
 - i. Introduce a provision that stipulates that no sale or transfer of landed property can occur unless the relevant division order from the App (related to matrimonial assets) is presented to the land office.
 - ii. Ensure that any proposed sale of charged land must obtain the consent of the spouse, in cases where the property is subject to a division order or app-apportioned ownership.
- 4) Further Details on Implementation - the Supervisory Body overseeing and certifying transfers should be clearly defined in the amended law. It could be a newly created department or a collaboration between existing regulatory bodies and the land offices.
- 5) Include provisions that allow the land offices to revoke or halt transactions initiated without proper compliance with the App's orders.
- 6) These amendments would ensure the land offices play an active role in preventing fraudulent transactions and ensure compliance with the App's decisions on asset division. This reform would help secure the interests of both spouses in a transparent, legally-backed system.
- 7) **Order 49 Rule 1 of the Rules of Court 2012** – to be amended to incorporate family law App decisions as the basis to garnish the salaries.

- 8) Any Assets Division Orders can be used by the couple to initiate enforcement proceedings such as bankruptcy petitions as an example.
- 9) JPN – new marriages cannot happen if there are arrears still due and owing from previous marriages in the sense that the Assets Division Order has not been complied with or there is default.

G. PRACTICABILITY OF THE APP

- 1) Spouses who forget to upload supporting docs and want to challenge or amend the Assets Division Order can do so, within 5 years, after which it is disallowed save in exceptional circumstances
- 2) APPEALS
 - i. Spouse submits objection within 30 days to Supervisory Body (extensions may be granted);
 - ii. Aggrieved spouse files appeal with independent tribunal with 30 days of the decision in sub-para (i);
 - iii. Appeal to High Court within 21 days of the decision in sub-para (ii); and
 - iv. Appeal to Court of Appeal within 30 days of the decision in sub-para (iii).
- 3) GPS incorporation, live video uploading and verification for contribution-in-kind is merely secondary, EPF contribution and statements is more than sufficient to determine whether or not the husband or wife is a househusband or housewife respectively.
- 4) Any challenge is purely on the legality or strictly and solely just only confined to procedural grounds and not on merits.
- 5) STRICTLY NO STAY

We take an example from the situation of payment of income taxes due to the government. Section 103 of the Income Tax Act 1967 mandates that income tax is payable notwithstanding an appeal. The reason for this is to ensure tax collection efficiency and to prevent revenue loss for the government, as the appeal process can take time, and delaying payments could lead to cash flow issues for the state. As such, even more so when the livelihood, well-being and safety of single parents are at stake, the Assets Division Order requires payment even if the said order is disputed. Husbands and wives must settle the said Assets Division Order amount first, with any potential refunds or adjustments made only after the final determination of the appeal.

- 6) In respect of how this App works for the land offices,

- a. the land offices will automatically be alerted and the land offices will prohibit any landed properties to be sold-off unless such sale is in accordance with the division order issued by the App whereas any fraudulent sale, transfer or disposition of the landed assets designed to deprive the other spouse of just assets division is unable to proceed unless the other spouse's prior written consent has been duly obtained;
 - b. where the landed properties are sold and transferred to third party purchasers pursuant to the assets division order and the proceeds thereof are to be allocated accordingly to the husband and wife, this transfer will be overseen and certified by the authorised personnel from the Supervisory Body; and
 - c. whereas where the landed properties are to be apportioned to the husband and wife (for example, the property is currently wholly owned by the husband but is ordered by the App to be apportioned to the husband and wife in equal ownership of 50% each), this transfer will also be overseen and certified by the authorised personnel from the Supervisory Body.
- 7) Due to the fact that unlike jurisdictions in the United States, UK and Australia, public searches made in order to obtain the exact list of properties owned by a specific individual just by keying-in his or her full name cannot be done at the moment for Malaysia's land offices. Some are of the view that this status quo needs to be preserved in order to safeguard privacy concerns. In this respect, our Society would like to broach a suggestion which is able to protect the husband and wife's interests in respect of avoiding dishonest or wilful non-disclosure but at the same time, privacy concerns are not compromised.
- 8) During the marriage registration procedures conducted in JPN, the couple would already have downloaded the App, so despite the possibility that either the husband or the wife or both of them had un-installed the App in the course of marriage (this may be due to reasons which include but are not limited to instances where the couple has faith in their other half in that the marriage is "guaranteed in life to last forever" or just to save space and memory in their handphones), both the husband and the wife's names are recorded and stored inside each land office's systems. As such, after the Assets Division Order is issued, if it is found that the spouse did not disclose that he or she has any relevant landed properties ("**Concealed Landed Assets**") and that the said landed property was not divided at all as the dishonest spouse had deliberately concealed the existence of such a matrimonial asset, then any form of transfer, entry of private caveat, lien holders caveat or charge to any financier bank are all prohibited to be effected upon the Concealed Landed Assets. This will effectively deter such devious spouses from concealing landed matrimonial assets.
- 9) The best part of this amendment is the fact that the spouses can save time costs and resources as they need not apply for a private caveat to be entered

in the land office and does not need to apply to the High Court to have the said private caveat removed – irrespective whether this is an application for an injunction under Section 102 of the LRA or Section 323 of the National Land Code, either application will surely involve extravagant legal fees and waste time costs and resources.

H. RATIONALE FOR EACH AMENDMENT

- 1) The average Malaysian consists of blue-collared or white collared working-class people or are people from the B40 or M40 categories with many financial and family commitments who are unable to afford a minimum average of RM150,000 legal fees in divorce cases and definitely do not have the time to go through traffic jams and the hassle of going up and down the court and sift through voluminous documentation before going through cross examination by his or her ex's lawyer in court. There are also many single parents with handicapped or OKU children where these children may be left at home with little to no supervision due to their parents' lack of financial means; some may be left unattended or neglected whilst their warring estranged parents are in family court to wrangle about matrimonial assets disputes.
- 2) Even though there is a system called Court Recording Transcripts which record the proceedings in Family Court's judgments, the judges still have the final say in determining the admissibility of evidence and can always make use of the excuse to their advantage that trial judges have the benefit of evaluating, first hand; the viva voce evidence (examination-in-chief, cross-examination and re-examination testimony) of the witnesses, meaning judges can always twist and turn the account of what had actually transpired, this in the literal sense, is to "throw stones and hide their hands" – subsequent to receiving bribes, judges are able to conceal irregularities in their written judgments through a farced up judgement and admittance of falsified documents as judges in the Family Court are free to determine exactly what to write in their written judgment, irrespective whether this may be the truth, the half-truth or the completely distorted facts.
- 3) The divorcee whom had lost the case's only hope is to appeal to the Court of Appeal, who unfortunately, can only decide on questions of law and not questions of fact, as only the lower court judge has witnessed first-hand; the facial expressions and testimonies of the witnesses. Moreover, the legal fees are even more humongous and again, there is also no guarantee at all; that bribes, incompetence/gross mistakes of judges & bias will not happen.
- 4) More often than not, the last avenue for redress of the divorcees would most often end at the Court of Appeal instead of the apex (highest) court which is the Federal Court as the Federal Court will only grant you the permission to hear your case if there is a question of law which has not yet been decided by the Federal Court pertaining to matters of public importance.
- 5) After the judgment has been issued by the court, it is actually legally permissible for anyone to make fair comments whether this be in social or mass media

about matters of public interest pertaining to the judgment but more often than not, due to Malaysian family courts and civil courts having too much unbridled discretion to twist & turn the facts and interpret the law and propensity to receive bribes from certain networks of lawyers; lawyers, judges and the divorcees whom won in family court are inclined to make unjustified, bullying threats of defamation against the disgruntled divorcees whom had lost in family court.

- 6) The majority of people in Malaysia consist of white collared workers or very poor people with many financial and family commitments who are unable to afford a minimum average of RM150,000 legal fees in divorce cases and definitely do not have the time to go through traffic jams and the hassle of going up and down the court and sift through voluminous documentation before going through cross examination by his or her ex's lawyer in court.
- 7) It also does not help that; bribes received by corrupt lawyers acting as conduits, by corrupt judges acting as recipients and by corrupt lawyers acting in cahoots with the adversary's lawyer are all near impossible to prove. In addition, the civil procedural rules in family courts are too technical for the common layman to understand and navigate.
- 8) For matters relating to division of assets, how much gets divided and who gets which proceeds and properties solely depend upon purely mathematical & factual aspects which is the extent of contribution in the monetary sense and contribution in-kind (duration of marriage for example), for which a computer can expeditiously and accurately determine without any need for any human discretion. So, it really does not make sense that the citizens are wasting public funds to sustain judges who are unjustly enriching themselves (judges) via robbing from the litigants in court for matters which do not even need judges to decide, in the very first place
- 9) We are able to reduce taxpayers' burdens in sustaining judges' remuneration.
- 10) This App is able to reduce the manpower and administrative burdens and workloads of the judges – the mountainous paperwork and overwhelming workload of the High Court judges was precisely the reason why Sessions Court judges were delegated with the power to also determine family court cases.
- 11) In relation to the above, there may be a very high risk that the decisions churned out by judges may be flawed, incorrect or is issued out with gross misdirection of the law due to the high number of divorce cases referred to the said judges. As such, the judges are too overstretched and overburdened with work to the extent that they have been negligent in applying the law or analysing the facts of each divorce case.
- 12) It is a first in this world where a family law App is used in terms of assets division – my idea can really help transform the lives of the fatherless, the motherless and the oppressed for the better;
- 13) In this day & age where almost everything is computerized for people's

convenience (e-wallets, online road tax & driving license renewal, online passport renewal, online platforms and even electronic case managements & electronic online hearings for Malaysia's own civil courts), it is truly laughable to think that in Malaysia, people are still using the manual paper way for single parents in family courts; and

- 14) My App can contribute to not just only Malaysian courts but also the world's family courts. In addition, Malaysia can be famous for the right reasons as this is a breakthrough in family law.
- 15) There is a lot of injustice, many hapless single parents are without redress and at their wit's end and there are loopholes susceptible for abuse and unjust enrichment for conduit lawyers and recipient judges to laugh all the way to the bank and get away scot-free – this is a mockery, considering that in this day and age of the 21st century, there is still a system where you can enable thieves to avoid the brunt of the law – it is like stealing at your own whims and fancies and helping yourself gleefully in a supermarket or a luxury goods shop as it has no CCTVs or security guards at all.
- 16) Judges never have the power in the very first place and should never have the power to determine other people's fate. You only allow judges to have this power only inside a courtroom when you are unable to reach a compromise with your ex-spouse but come to think of it, can anyone ever guarantee that a fair or mutually agreeable compromise can be arrived at, for every divorcee. In this respect, it is to be noted that this App does not take away the power of the judge in court should the divorcees fail to reach a compromise out of court. This App merely just only gives the divorcees an additional option of sorting out contended assets division issues in a cost-savvy and hassle-free way.
- 17) It is a statement of fact to set out here that my proposed amendments and the implementation of the App will substantially reduce the legal fees and profits on divorce proceedings transactions for family lawyers in Malaysia although the aforementioned reforms are highly beneficial to single parents, to society and to mankind as a whole. Nevertheless, at the end of the day, everyone in all segments of society has to bear in mind that, in every progressive, rational and right-thinking society, it is absolutely not the citizens' duty/obligation to ensure that lawyers and judges will have their respective monetary profits (whether these profits be ill gotten gains or legal but unethical gains or otherwise) or absolute power which is not subject to any checks or balances intact at all times to the extent of giving way to and encouraging unjust enrichment at the own expense of taxpayers

I. DISCUSS THE EXPECTED IMPACT AND BENEFITS OF THE AMENDMENTS

- (1) Reduce the wastage of taxpayers' money on judges' remuneration as more people will turn to the free and user-friendly family law app
- (2) Rakyat will not be fleeced by unscrupulous lawyers who charge exorbitant legal fees which are disproportionate to the volume, quality and type of work rendered – under the current Solicitors' Remuneration Order, litigation work is

considered as non-contentious, thus there is no fixed scale or rates for the imposition thereof.

- (3) There will be lesser social ills and vice like prostitution, criminal activities and begging as this will greatly alleviate or lessen to a considerable extent, the poverty rate of single parents.
- (4) Domestic violence rates can be reduced, as battered and abused housewives with no earning power and working experience are no longer subject to the mercy of their husbands and can have expedited, efficient and effective financial relief through this App.
- (5) Increase financial independence and financial redress for housewives & reduce financial distress and burdens for the housewives or househusbands who depend on their other half for sustenance.

J. CONSULTATIONS AND STAKEHOLDER ENGAGEMENT

(1) We had asked for the Malaysian Bar's feedback as early as June 2021 and was only told with scant details that the Malaysian Bar is "already dealing with amendments to the Law Reform Act." Prior to approaching YB Hannah Yeoh in June 2021, in November 2020, we had actually also asked former Member of Parliament Charles Santiago for his help in disseminating these indispensable reforms but was only told to "forward" such reforms to the Malaysian Bar (this was the same advice Hannah Yeoh had given us). Subsequent to that, we had also asked for assistance from the current Member of Parliament for Klang which is YB Tuan Ganabatirau a/l Veraman.

(2) Unfortunately, it is most disappointing to note that all of the aforementioned efforts were to no avail and as to date, there has been no further status update or developments at all from either of the aforesaid parties. We are truly grateful that in 2024, YB Datuk Wan Saifulruddin Wan Jan went the extra mile and kindly offered to present our proposed reforms for formal discussion in Parliament with a view to enacting our reforms into effective legislation.

K. IMPLEMENTATION PLAN

Implementing the proposed family law app in Malaysia, which facilitates transparency in asset division and enforcement in divorce proceedings, requires a multi-tiered plan which addresses **legislative amendments, enforcement mechanisms, application development, and practicable considerations**. Below is a detailed outline of this plan from various perspectives:

1. Legislative Amendments

To support the functionality of the app, existing family law and related regulations in Malaysia must be amended to create the legal framework for the app's operation. The key legal aspects are:

a. Asset Transparency & Disclosure

- **Amend Family Law Legislation:** Amendments to the **Law Reform (Marriage and Divorce) Act 1976** to mandate digital transparency of asset information via the app. The law would need to:
 - Mandate the **automatic disclosure** of assets (bank accounts, properties, and shares) through secure digital connections to relevant government bodies (e.g., land offices, banks).

b. Digital Submission of Contribution Proof

- Amend relevant sections in **family law** and **evidence law** to allow digital submission of documents (e.g., housing loans, e-wallet statements, video submissions) as admissible proof in court and administrative settings.

c. Automatic Enforcement of Orders

- Amend the **Courts of Judicature Act 1964**, **Employment laws**, and relevant **banking regulations** to:
 - Allow the app to enforce division orders via the **automatic debiting of bank accounts** and **salary deductions**.
 - Authorize the **Companies Commission of Malaysia (CCM)** and **Employees Provident Fund (EPF)** to provide real-time employment and salary information.
 - Provide a framework for **automatic salary deductions** by employers, as ordered by the app.

2. Enforcement Mechanisms

Once legislative amendments are in place, enforcement mechanisms must be developed and linked with the app. These mechanisms include:

a. Centralized Database Access

- The app needs **direct access** to relevant governmental databases for real-time data retrieval (e.g., land ownership, bank accounts, employment details).
- Integration with the **Land Offices**, **Banks**, **Companies Commission of Malaysia (CCM)**, **EPF**, and **tax authorities** to automatically enforce division orders and restrict asset transfers or sales.

c. Automated Alerts & Actions

- Land offices, banks, and other bodies need to receive **automated alerts** when an asset transfer or transaction violates a division order, stopping such transactions.
- Employers, via the app, must receive **salary attachment orders** for automatic debiting and crediting of spousal payments.

3. Application Development

From a technical and functional standpoint, the app must be carefully developed to ensure security, user-friendliness, and efficiency.

a. App Functionality

- **User Interface (UI):** Develop a user-friendly interface for laypersons to submit and view relevant information easily. Simple forms and verification methods (e.g., for contributions like receipts or videos) must be incorporated.
- **Real-Time Integration:** The app needs real-time connectivity with government databases, banks, and land offices to retrieve accurate asset information and ensure transparency.
- **Verification System:** Implement a **fool-proof verification system** for uploaded documents, videos, and other proof of contribution. Government bodies can verify assets, contributions, and transactions automatically via the app.

b. Security and Privacy

- Ensure **end-to-end encryption** for all transactions and data sharing between the app, spouses, and governmental bodies.
- Build in safeguards for **confidentiality** of sensitive financial and personal information, in compliance with the PDPA.

4. Practicable Aspects

To ensure the practicality of the app's implementation, several operational steps and considerations must be addressed:

a. Pilot Program & Phased Rollout

- **Pilot Program:** Start with a pilot program in selected states to test the app's functionality, legal integration, and public response.
- **Phased National Rollout:** Gradually roll out the app nationwide once the pilot phase demonstrates success. Adjustments can be made based on feedback.

b. Government & Public Awareness Campaign

- **Public Campaigns:** To gain public trust and participation, launch **awareness campaigns** detailing how the app works, its benefits, and its role in family law cases.

- **Government Training:** Provide training to would be divorcees and other governmental authorities on how to integrate and utilize the app in their respective functions.

c. Technical Support & Legal Aid

Offer **technical support** for app users, especially in cases where spouses may not be familiar with digital applications.

5. Challenges and Solutions

a. Resistance to Change

- **Challenge:** There may be resistance from traditional legal professionals or unscrupulous lawyers who impose exorbitant legal fees on clients or who selfishly thinks that it is lawyers' rights to obtain legal fees from potential clients and it is not within the lawyers' interests to save the rakyat save on legal fees.
- **Solution:** Gradual implementation with comprehensive training, as well as an option for manual submission for parties who cannot access the app.

b. Data Security

- **Challenge:** High sensitivity of financial and personal data shared between parties.
- **Solution:** Adoption of advanced encryption technologies and strict compliance with PDPA.

c. Integration with Government Systems

- **Challenge:** Existing government systems may not be fully ready for seamless integration.
- **Solution:** Work with government IT departments to ensure infrastructure readiness and allocate funding for system upgrades.

L. FINANCIAL IMPLICATIONS

We had obtained four (4) quotations and is in the midst of procuring a quotation from Lizard Global. All in all, the costs implications are very much a good bargain and good choice for long term investment as currently, even the Pengarah Tanah Galian Selangor is already using an online system to determine the status of presentation, collection, e-consent (for transfer and charge) and quit rent and assessment

M. MONITORING AND EVALUATION

We hereby attach the road map done by a reputable mobile app provider whom had dealt with the government before on provision of mobile app transactions, Lizard Global.

N. SUPPORTING DOCUMENTS

- 1) <https://www.nst.com.my/news/nation/2023/11/981865/decline-marriages-increase-divorces> had reported that in contrast to the trends in marriages, the report also revealed an increase in divorce rates, surging to 43.1 per cent, reaching 62,890 in 2022. Life is uncertain for anyone and there is no guarantee in this world on lasting finances and lasting marriages.
- 2) According to <https://codeblue.galencentre.org/2022/07/khairy-moots-national-autism-council-as-autism-rates-rise/#:~:text=The%20number%20of%20diagnoses%20for,from%20562%20children%20in%202020> the erstwhile Health Minister Khairy Jamaluddin said that he will recommend to the Cabinet to form a National Autism Council, amid increasing numbers of autistic children in Malaysia. It is heart wrenching to think about the plight of single parents, even more so, when there are innocent and hapless OKU children involved in such a callous society which does not really uphold the rule of law.
- 3) It is pertinent to note that it was extremely viral and widespread news way back in 2010 where there was a public uproar by Malaysian citizens claiming that “justice had gone blind in Malaysia. As per <https://www.thestar.com.my/news/nation/2010/08/13/i-dont-want-mummy-says-girl-in-custody-fight> custody of an 11 year old girl called Low Bi-Anne was incredulously granted to the mother even though the father and not the mother (the mother had emigrated to London and had already given up custody of the little girl) was the one solely taking care of Low Bi-Anne. If this case had not gone viral, it would be unfathomable as to what would have been the outcome of the Court of Appeal’s judges’ decision.

-----the rest of this page is intentionally left blank-----

CONSEQUENCES OF DISSIPATION OF MONIES

Upon uploading of divorce petition be either Husband or Wife on the App, H has to return and remit the RM1 mill back into the bank account within five (5) work days; which is to be subject to the Assets Division Order issued by the App

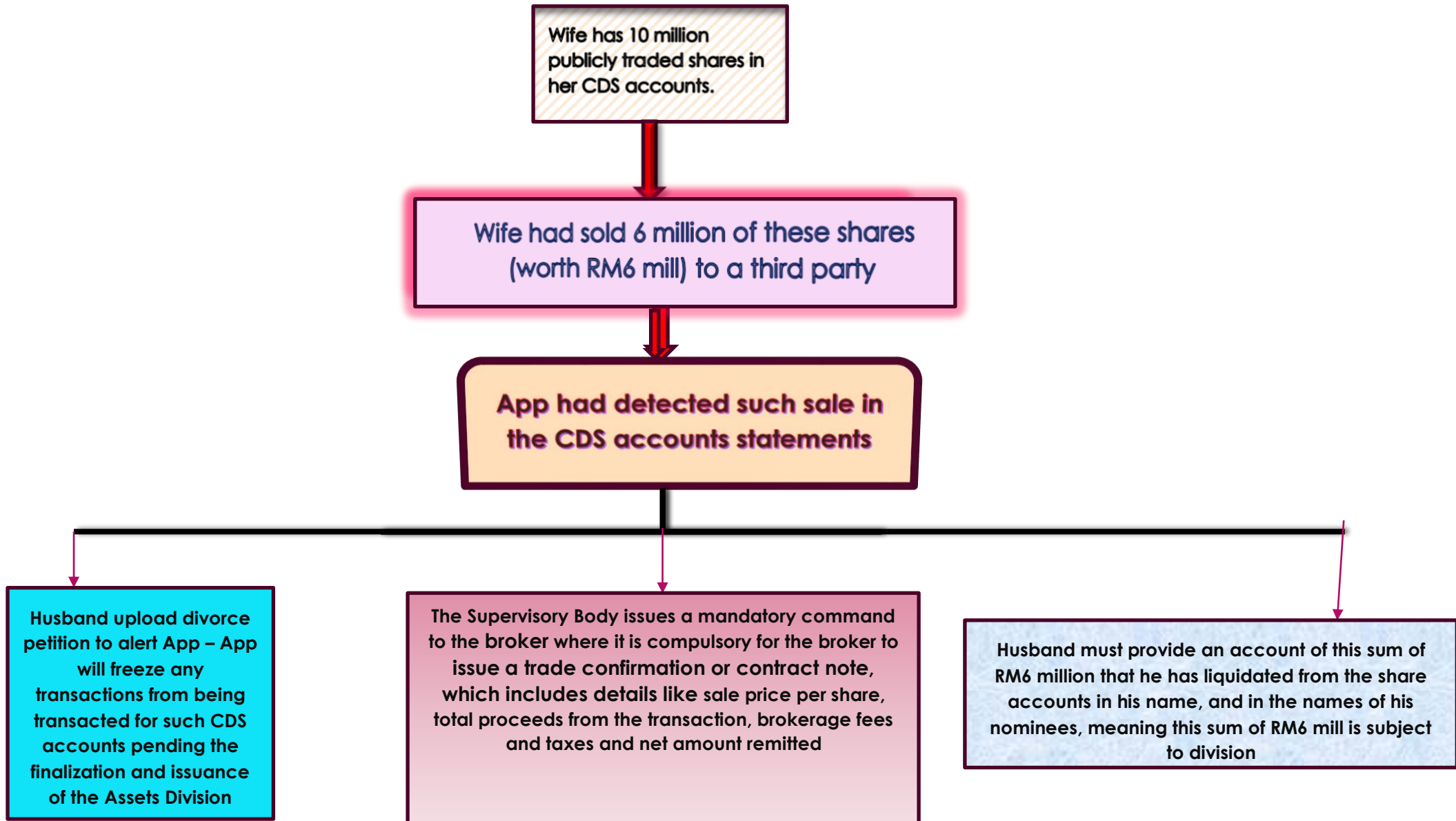
Husband defaults

Husband's bank accounts in Malaysia will be garnished automatically to be remitted back to the account & will be frozen for division in accordance with Assets Division Order

Husband complies to return the dissipated RM1 million

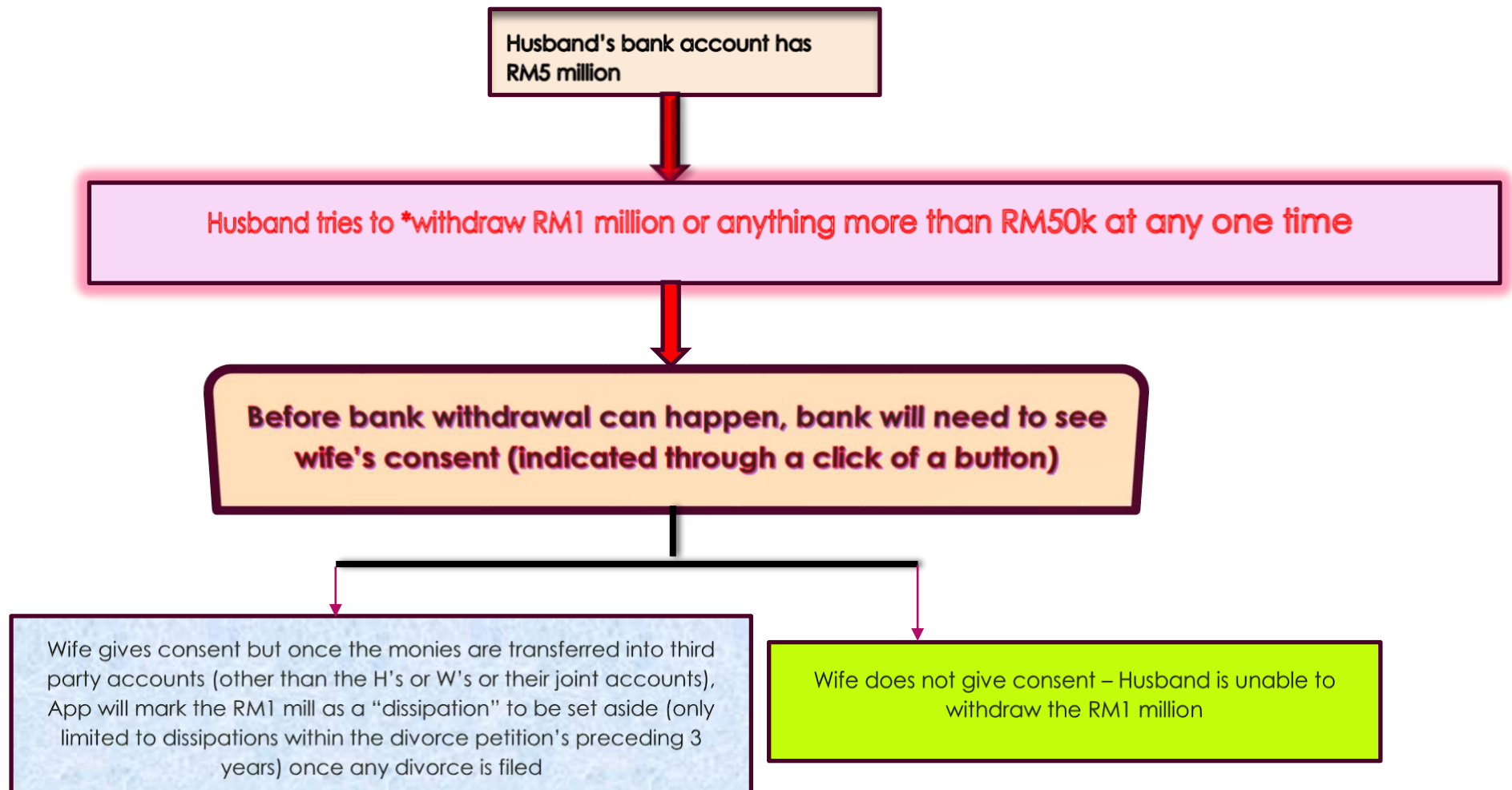
Husband is unable to register for new marriage in JPN despite the decree nisi being absolute as JPN refuses to recognise & issue update on the marital status – marital status of wife (or non-defaulting spouse) will not be affected & can be updated

CDS Accounts where the nominee entity is the legal holder, and spouse is listed as the beneficial owner



BANKING ACCOUNTS

*App can execute with precision the function of the court under Section 102 LRA (identify dissipations & make the spouse accountable for such dissipations) through TNG statements, credit card statements, movements in the marriage's bank accounts and e-invoices). For example, monies transferred from the couple's joint accounts to the bank account belonging to the mistress or parents of the husband or other third parties are red flags.



METHOD OF APPORTIONMENT

**LANDED PROPERTIES, BANK
ACCOUNTS, CDS ACCOUNTS &
SHARES OF PRIVATE LIMITED
COMPANIES**

List of Properties

Husband or Wife clicks on this button inside the App

Contains the below details -

- (1) with title or still under master title pending for subdivision;
- (2) freehold/leasehold;
- (3) financier details;
- (4) ownership (held solely, jointly by the couple or jointly with third parties such as parents, etc.)
- (5) postal address;
- (6) type of property (terrace, bungalow or condo); and
- (7) title details

Loans which are used to finance the properties setting out the below details as what you would see in your own credit reports issued by a credit reporting agency such as Ram Credit's CTOS reports –

- (1) Date the loan is approved;
- (2) Capacity of husband or wife (as lender or third-party charge or assignee);
- (3) Type of facility (Islamic or conventional housing loan);
- (4) Total of the outstanding balance;
- (5) Limit of facility; and
- (6) Collateral type

Husband or wife presses on the Assets Division Button after uploading the divorce petition filed by either party in court

Within the same business day

By the next business day



Any properties are automatically prohibited by the land offices from being transferred/disposed (to avoid dissipation) until all terms of the Assets Division Order are complied with

within 14 days



The couple has to upload supporting documents such as **e-invoice** containing details of landed asset's description/address to prove that renovation has been done by the appointed contractor – photos and videos of renovated house appended as proof (containing "GPS coordinates" as what you see on Lazada)

Couple can also press on the button showing the proof automatically identified by the App as either spouse's payment of monthly instalments for the said housing loan

App will show the details below -

- (1) Date of submission;
- (2) Date the supporting documents are rejected;
- (3) Date the supporting documents are approved;
- (3) List of the names of the files or documents which were rejected;
- (4) a sufficient screenshot overview of what the submitted document looks like;
and
- (5) reasons for the rejection.

within
15 - 30
working
days

Decision or Assets Division Order is made

The entitled spouse's bank accounts will be debited and credited accordingly. There will be an automatic prohibitory order prohibiting the sale of the said matrimonial assets pending the finalization of the sale and due apportionment thereof.