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SUPREME COURT  
OF GUAM

**IN THE SUPREME COURT OF GUAM**

**JUNG YE KANG,**  
Plaintiff-Appellee,

v.

**BYONG HI KANG,**  
Defendant-Appellant.

Supreme Court Case No. CVA13-037  
Superior Court Case No. DM0675-09

**OPINION**

**Cite as: 2014 Guam 25**

Appeal from the Superior Court of Guam  
Argued and submitted on May 19, 2014  
Hagåtña, Guam

Appearing for Defendant-Appellant:

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BEFORE: ROBERT J. TORRES, Chief Justice; F. PHILIP CARBULLIDO, Associate Justice; KATHERINE A. MARAMAN, Associate Justice.

**MARAMAN, J.:**

[1] Defendant-Appellant Byong Hi Kang (“Byong Hi”) appeals from the trial court’s decision and order granting in part and denying in part his request to amend and for relief from the court’s prior award of temporary spousal support and attorney’s fees. The trial court reduced its prior award of temporary spousal support to Plaintiff-Appellee Jung Ye Kang (“Jung Ye”) from \$6,715.00 per month to \$5,000.00 per month. It did not modify its prior order granting Jung Ye attorney’s fees in an amount not to exceed \$25,000.00. Byong Hi argues that the trial court insufficiently reduced the temporary spousal support award, and erred in failing to consider the changed circumstances of the parties pursuant to our decision in *Malabanan v. Malabanan*, 2013 Guam 30. He also claims that the court erred in not modifying Jung Ye’s award for attorney’s fees.

[2] We find that the trial court did not abuse its discretion in setting the amount of temporary spousal support at \$5,000.00 per month. The matter of attorney’s fees is not ripe for review at this time, except as to the issue of the trial court’s establishment of a cap of \$25,000.00, which does not amount to an abuse of its discretion.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

[3] Byong Hi and Jung Ye were married in Korea in 1957. They both currently reside in Guam. Byong Hi owns and works at a construction company he incorporated in 1982 called Guam Construction Company (“GCC”). Jung Ye is not employed, does not speak English, and claims that she has no skills with which she may earn a living. She has never held meaningful employment.

[4] While Byong Hi and Jung Ye were married, they lived in a residence in Dededo. At the time of separation, two of the parties' grandchildren were living with them, with Byong Hi as their legal guardian. Byong Hi "paid all amounts due for mortgage, utilities, groceries, and tuition for [the] grandchildren," who attended private school. Record on Appeal ("RA"), tab 38 at 3 (Decl. Pl., June 6, 2012) ("Decl. Pl. 2"). Before the separation, Jung Ye drove a Lexus sedan and had a full-coverage car insurance plan. According to both parties, Jung Ye received about \$3,000.00 per month in allowance in the form of a "salary" from GCC. RA, tab 38 at 3 (Decl. Pl. 2); tab 67 at 24-30 (Notice of Submission of Partial Dep. Tr. of Byong Hi Kang & FHB Statements, July 16, 2013) ("Byong Hi Dep."). Jung Ye asserted that she "was not actively involved with running the business," and Byong Hi confirmed that she was not an employee and did not work for GCC. RA, tab 38 at 3 (Decl. Pl. 2); RA, tab 67 at 24 (Byong Hi Dep.).

[5] The parties separated in 2009 after approximately 52 years of marriage. They dispute many material facts relating to their community and separate assets. For example, much of the parties' disagreement stems from a document executed on February 27, 2003, purportedly giving Byong Hi power of attorney for Jung Ye, which Byong Hi then allegedly abused in divesting Jung Ye of her interest in various marital assets. In addition, the parties dispute the ownership of their former residence; the commercial property, Guam Business Center ("GBC"); and GCC and its shares. Although Byong Hi has continuously maintained full control of GCC's operations, its shareholders have varied from year to year. According to Byong Hi, he alone controls the issue and transfer of shares among shareholders.

[6] On June 29, 2012, the trial court orally granted Jung Ye \$2,000.00 per month in support, "just so that we can have some survival until the motion [for temporary spousal support] is heard." Transcripts ("Tr.") at 6 (Mot. Disqualify, June 29, 2012).

[7] The parties filed several competing declarations. Jung Ye's first declaration in support of her motion for temporary spousal support cited her monthly expenses as \$11,910.00. In her second declaration, however, Jung Ye filed a statement of monthly expenses for "bare necessities" in the amount of \$3,465.00. RA, tab 38 at 3, Ex. K (Decl. Pl. 2). She stated that she and the grandchildren had "survived on what remained of my savings account, which is nearly depleted, and on help from my children." RA, tab 32 at 4 (Decl. Pl., Apr. 19, 2012) ("Decl. Pl. 1"). She also claimed to have sold "most of the valuable jewelry [she] had" to help pay her bills. RA, tab 42 at 5 (Decl. Pl., June 27, 2012) (Decl. Pl. 3"). Jung Ye also asserted that after the separation, she reverted to the cheapest car insurance plan available. Jung Ye received \$1,344.50 per month in Social Security benefits. She alleged that Byong Hi received all revenues from the commercial property GBC, about \$20,000.00 per month.

[8] In addition, Jung Ye requested attorney's fees, claiming that she had no money to pay her attorneys.<sup>1</sup> She stated that Byong Hi "has spent years dismantling our marital estate and sending our assets to Korea or transferring them to his sister or others. I believe it will require a huge amount of work by attorneys to track down the assets my husband has stolen and hidden, and it will cost a great deal of money in attorney's fees." RA, tab 38 at 4 (Decl. Pl. 2).

[9] Byong Hi claimed that his monthly income was \$5,912.00 and that his monthly expenses amounted to \$5,683.53. These expenses included clothing and "entertainment and dining" costs. RA, tab 41 at Ex. A (Decl. Opp'n to Mot. Supp., June 7, 2012). At the time of the August 9, 2013 decision and order, Byong Hi lived in an apartment unit in the GBC owned by GCC. Although he stated that he paid \$1,100.00 in rent, he also testified in his deposition that GCC paid for his apartment and car. Byong Hi argued that he reduced his workload due to his

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<sup>1</sup> On appeal, Jung Ye asserts that she has been unable to pay her attorneys for two years.

deteriorating health, and that GCC has lost business over the past few years. At the time of the August 9, 2013 decision and order, Byong Hi owned 20% of shares in GCC, his brother owned 45% of shares, and his sister owned 35% of shares.

[10] On May 7, 2013, the trial court held a hearing on the motion for temporary support. The trial court thereafter granted Jung Ye temporary spousal support in the amount of \$6,715.00 per month. In the decision and order issued on August 9, 2013, the trial court focused largely on Jung Ye's sources of income and expenses, ultimately finding that her "inability to support herself and the Parties' prior dependents cannot be reasonably or credibly disputed." RA, tab 70 at 3 (Dec. & Order, Aug. 9, 2013) ("Dec. & Order 1"). It also found that Byong Hi's "ability to meet his own financial obligations and or provide support to [Jung Ye] cannot be reasonably or credibly disputed." *Id.* It placed special emphasis on the parties' prior and present standard of living, the length of the marriage, and the age, education and respective abilities of the parties. It found that "the majority of the expenses identified in [Jung Ye's] June 6, 2012, papers, are reasonably necessary." *Id.* at 4. The court found that "under the same authority and analysis" attorney's fees were also merited. *Id.* It provided for fees of up to \$25,000.00 initially, subject to reasonableness and relevancy, and an itemized invoice submitted by Jung Ye. After disposition of the action, these fees are to be deducted from Jung Ye's share of the community property.

[11] After the trial court's August 9, 2013 decision and order, Byong Hi moved to amend the temporary spousal support order. In support, he filed a declaration citing to "a number of significant and material changes in income and expenses, resources and earning capacities, for both [parties]." RA, tab 73 at 1 (Decl. Supp. of Mot. Amend, Aug. 22, 2013). He cited to a recent civil lawsuit filed on May 15, 2013, relating to the ownership of GCC, involving millions

of dollars and negatively affecting the profitability of the company. He also pointed to a reduction in his annual and monthly income from GCC, about \$20,000.00 less than the previous year. Byong Hi alleged that he now pays about \$800.00 in grandchild support, and that Jung Ye had moved into the parties' former residence, thereby restoring her prior living standard. He acknowledged that his daughter rented the house for \$800.00 per month. *Id.* at 2. Finally, Byong Hi objected to Jung Ye's attorney's fees, protesting the fact that two lawyers worked on her case and suggesting that Jung Ye's counsel was overbilling.

[12] In her opposition, Jung Ye stated that she was paying at least \$1,000.00 per month to live at the parties' former residence, and was unsure of how long she could continue to stay there. She stated that Byong Hi's grandchild support claim was false.

[13] The court issued another decision and order on November 5, 2013. RA, tab 82 at 1 (Dec. & Order, Nov. 5, 2013) ("Dec. & Order 2"). In altering its award of temporary spousal support, it focused on Byong Hi's income, although it briefly discussed both parties' factual allegations. Based on Byong Hi's change in income and the pending litigation involving GCC, the court reduced the award to \$5,000.00 per month. It did not alter its decision regarding attorney's fees.

## II. JURISDICTION

[14] This court has jurisdiction over appeals from a final judgment of the Superior Court pursuant to 48 U.S.C.A. § 1424-1(a)(2) (Westlaw through Pub. L. 113-125 (2014)), 7 GCA §§ 3107(b) and 3108 (2005). A decision based upon a motion for temporary spousal support is an appealable final judgment. 19 GCA § 8402 (2005); *Malabanan v. Malabanan*, 2013 Guam 30 ¶ 20.

### III. STANDARD OF REVIEW

[15] We review a trial court’s award of temporary spousal support for abuse of discretion. *Malabanan*, 2013 Guam 30 ¶ 21. The burden is on the appellant to establish abuse of discretion. *Id.* ¶ 23. “Under the abuse of discretion standard, ‘a reviewing court does not substitute its judgment for that of the trial court.’ Instead, the reviewing court ‘must simply determine whether substantial evidence supports the trial court’s decision.’” *Id.* ¶ 22 (citing *People v. Tuncap*, 1998 Guam 13 ¶ 12; *Rodriguez v. Rodriguez*, 2003 Guam 8 ¶ 9).

[16] We review a trial court’s award of attorney’s fees pursuant to 19 GCA § 8402 for an abuse of discretion. *Cruz v. Cruz*, 2005 Guam 3 ¶¶ 8-9.

### IV. ANALYSIS

#### A. The Court’s Amended Order of \$5,000.00 Per Month in Temporary Spousal Support to Jung Ye

[17] Byong Hi claims that the trial court “failed to consider both parties’ material changed circumstances” in its \$5,000.00 amended award to Jung Ye, which “far exceeded” her “reasonable needs.” Appellant’s Br. at 13 (Mar. 4, 2014). He alleges that the trial court improperly focused only on Byong Hi’s reduced income and the pending litigation with GCC, and did not discuss the other changed circumstances that he set forth. *Id.* at 14-19.

[18] This court addressed the issue of modifications to temporary spousal support orders in *Malabanan*, 2013 Guam 30. In *Malabanan*, the trial court modified a temporary spousal support order because it found that the initial award was insufficient to preserve the plaintiff’s separate property, and because the defendant’s income exceeded his expenses. *Id.* ¶ 19. We reversed and remanded the case because “the court made no mention of how [plaintiff’s] need represented a marked change from the time of the original order.” *Id.* ¶ 29. We found that “[i]n order for the trial court to modify a preexisting order of temporary spousal support, it must determine whether

there is a material change in circumstances warranting modification, and the moving party must prove that there exists a nexus between the change of circumstances and the change in need.” *Id.* ¶ 30.

[19] At the same time, *Malabanan* found that “we do not imply that the trial court must utilize a precise mathematical formula to reach its decision when a party seeks modification of a temporary spousal support award *pendente lite*.” *Id.* ¶ 33. In finding that the court abused its discretion, we stated that the “trial court must clearly delineate where a change exists between the two relevant time periods—the time of the initial award and the time of modification—such that a material change of circumstances is both verified and shown to be properly connected to an increased need.” *Id.* ¶ 34.

[20] In its August 9, 2013 decision and order, the court awarded temporary spousal support of \$6,715.00 per month. RA, tab 70 at 1 (Dec. & Order 1). In doing so, it looked to Jung Ye’s expenses of \$3,465.00, made some adjustments to this sum, and added the \$3,000 monthly salary that Jung Ye had received during the marriage. *Id.* at 1-4. The trial court emphasized that it focused on the parties’ standard of living, the length of the marriage, and the age, education, and ability of both parties. *Id.* at 4. It had facts before it indicating that Jung Ye lacked employment, that GCC appears to be Byong Hi’s alter ego, and that GCC’s assets are likely worth far more than any assets of Jung Ye. RA, tab 32 at 4 (Decl. Pl. 1); RA, tab 42 at 1-6 (Decl. Pl. 3); RA, tab 67 at 37-38 (Byong Hi Dep.); see also *Sweeley v. Sweeley*, 170 P.2d 469, 470 (Cal. 1946) (“The circumstances of the parties, including the property which each possesses, their respective incomes and earning abilities, as well as their needs, are to be considered in determining the necessity and amount of temporary alimony.”). Jung Ye also provided evidence that the sum of around \$3,000.00 covered only the bare necessities for herself and the grandchildren, and that

she was currently living far below the standard of living she enjoyed during marriage. RA, tab 38 at 1-3 (Decl. Pl. 2).

[21] In its November 5, 2013 decision and order modifying the amount of temporary spousal support, the court discussed Byong Hi's arguments that his circumstances had changed since May 2013, when the court heard Jung Ye's motion for temporary spousal support. RA, tab 82 at 2 (Dec. & Order 2). It also mentioned Jung Ye's response to Byong Hi's motion to amend, including her refutations of several of Byong Hi's claims. *Id.* The trial court then stated:

[A]fter re-considering this matter and taking into consideration [Byong Hi]'s income as reported on his 2012, 2011, and 2010 tax returns, as well as the currently pending litigation over the marital estate's primary asset, Guam Construction Company, the Court finds that these facts merit a reduction in its previously ordered *pendent lite* [sic] spousal support.

*Id.* at 3-4 (citing *Sananap v. Cyfred, Ltd.*, 2011 Guam 21 ¶ 18).

[22] The trial court's decision here is similar to the trial court's decision in *Malabanan*, as both courts focused largely on the defendant's ability to pay. However, unlike in *Malabanan*, where it was "unclear whether the trial court took into account changes in the parties' circumstances since the time of the original order," *see Malabanan*, 2013 Guam 30 ¶ 31, the trial court in this case was faced with many allegations of changed circumstances, and appeared to consider them all. Moreover, it articulated specific changes that justified its reduction of the temporary spousal support award. The pending litigation against GCC, which was filed after the May 7, 2013 hearing on Jung Ye's motion for temporary spousal support, is clearly a changed circumstance that affects Byong Hi's ability to pay temporary spousal support, as GCC is Byong Hi's business and primary source of income. *See* RA, tab 73, Ex. A (Compl., May 15, 2013). In addition, Byong Hi's tax returns were not filed with the trial court until after the August 9, 2013 decision and order, and allegedly demonstrate that his income was decreasing. RA, tab 81 at 1

(Notice of Filing Tax Returns Under Seal, Oct. 16, 2013); RA, tab 73 at 2 (Decl. Supp. of Mot. Amend). Thus, there were at least two significant changes in the parties' circumstances between the August 9, 2013 decision and order and the November 5, 2013 decision and order that supported a reduction in the court's award.

[23] The trial court's failure to specifically mention or give credence to the other alleged changes in circumstance does not mean that it did not consider them. The factual accounts of the parties differ vastly, and the court acknowledged the parties' competing claims in the decision and order. See RA, tab 82 at 2 (Dec. & Order 2). For example, Byong Hi argues that Jung Ye's needs were reduced because she had returned to live at the family home. Appellant's Br. at 15. However, Jung Ye provided evidence that she now pays *more* in rent than she did at the time of the August 9, 2013 decision and order. RA, tab 79 at 1-2 (Decl. Pl. Supp. Opp'n to Mot. Amend, Sept. 26, 2013) ("Decl. Pl. 4").<sup>2</sup>

[24] In addition, Byong Hi makes much of the fact that Jung Ye stated that she needed only "\$3,000 per month 'in totality'" in support. Appellant's Br. at 15. First, we note that this is not a change in circumstance, as Jung Ye cited that she needed \$3,465.00 for her necessities prior to the August 9, 2013 decision and order. See RA, tab 38 at Ex. K (Decl. Pl. 2). Moreover, there is no requirement that a monthly temporary spousal support award must equal the minimum needed by the party receiving the support. Rather, we find that the award must reflect the "awardee's ability to 'live in her accustomed manner pending the disposition of the action.'" *Malabanan*, 2013 Guam 30 ¶ 30 (quoting *Whelan v. Whelan*, 197 P.2d 361, 362 (Cal. Dist. Ct. App. 1948)).

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<sup>2</sup> In his briefs, Byong Hi also places great emphasis on Jung Ye's business savviness and possession of various community assets. See Appellant's Br. at 16-17. However, he does not explain how these facts represent a change in circumstances between the trial court's August 9 and November 5, 2013 decisions and orders. Moreover, these assertions were also contested, with support, by Jung Ye. See RA, tab 41 at 2 (Decl. Opp'n to Mot. Supp.). As such, the trial court did not err in failing to discuss these facts.

[25] Here, while Jung Ye may need at least \$3,000.00 a month for necessities, there is substantial evidence that the standard of living to which she grew accustomed during the parties' marriage requires significantly more. Before separation, she had better car insurance, a monthly allowance, and money to spend on her grandchildren.<sup>3</sup> The court acknowledged this in its August 9, 2013 decision and order when it considered the roughly \$3,000.00 that Jung Ye needed for necessities, and added to it the \$3,000.00 monthly allowance that Jung Ye had enjoyed during the marriage. *See* RA, tab 70 at 4 (Dec. & Order 1). Accordingly, the court correctly did not equate Jung Ye's basic needs with the amount to which she is entitled in temporary spousal support.

[26] This court will not dictate the language or reasoning that the trial court must make in finding that there was a material change in circumstances meriting a change in the award for support *pendente lite*. *See Guam Radio Servs., Inc. v. Guam Econ. Dev. Auth.*, 2000 Guam 23 ¶ 6 ("The abuse of discretion standard is meant to insulate a trial court's decisions from any second-guessing by an appellate court."). It is enough that it was reasonable, as here, for the court to reduce its prior award based on a conclusion that Jung Ye's basic necessities remained essentially the same, while Byong Yi's ability to pay was diminished. Therefore, the court did not abuse its discretion in amending the amount of monthly temporary spousal support from \$6,715.00 to \$5,000.00.

**B. The Court's Award of Up to \$25,000.00 in Attorney's Fees to Jung Ye**

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<sup>3</sup> We note that there is no claim that Byong Hi is under a legal obligation to provide for the parties' grandchildren. The parties do not argue, and there is no supporting evidence, that the court's award contemplated any such obligation. To the extent that Jung Ye's temporary spousal support is spent on the parties' grandchildren, this court nonetheless considers it to be spousal support which reflects the amount Jung Ye was accustomed to receive during marriage, and not a form of grandchild support.

[27] Byong Hi next argues that the trial court erred in failing to modify its award of \$25,000.00 in “outstanding legal fees” to Jung Ye. Appellant’s Br. at 19. The trial court initially found that Jung Ye’s legal fees were necessary under the standard set forth in *Cruz* and in 19 GCA § 8402. RA, tab 70 at 4 (Dec. & Order 1). At the same time, it found that attorney’s fees were appropriate only “so long as [the fees] are reasonable and related to [the] instant action” and that “[Jung Ye]’s legal fees [are] subject to an initial \$25,000.00 limit and are to be deducted from [Jung Ye]’s share of the marriage assets at the disposition of this matter.” *Id.* The court’s November 5, 2013 decision and order did not grant Byong Hi’s request to modify the order with respect to the attorney’s fees. Instead it “re-emphasize[d] that in its November 9, 2013, decision [sic], its order of attorney fees is limited and subject to [Jung Ye]’s provision of an itemized invoice describing the fees. . . . [and] the fees’ reasonableness.” RA, tab 82 at 4 (Dec. & Order 2).

[28] Jung Ye filed the invoices of her attorney’s fees under seal on November 15, 2013. RA, tab 84 at 1 (Notice of Submission of 2011-2013 Invoices (Filed Under Seal) (Nov. 15, 2013)). Since then, the trial court has not yet ordered Byong Hi to pay any fees. Because there is no award of attorney’s fees to review, this issue is not ripe for our review. *See Ada v. Guam Tel. Auth.*, 1999 Guam 10 ¶ 14; *People v. Gay*, 2007 Guam 11 ¶ 8.

[29] In determining whether an issue is ripe for review, we have articulated two factors that must be considered. *See Gay*, 2007 Guam 11 ¶ 8. We first look to “whether the issue is fit for judicial consideration,” and then to the “hardship to the parties of withholding court consideration.” *Id.* “[A]n issue is not ‘fit’ for judicial review when it involves ‘contingent future events that may not occur as anticipated, or indeed may not occur at all.’” *Id.* (quoting *United States v. Dibiase*, 687 F. Supp. 38, 42 (D. Conn. 1988)).

[30] Here, there is no information as to the actual amount of attorney's fees that Byong Hi is required to pay. Although the court received Jung Ye's invoices under seal, it has yet to react to these documents. It may decide not to award any attorney's fees, or it may award an amount less than \$25,000.00. Moreover, it could potentially decide to unseal the invoices, giving Byong Hi a further opportunity to oppose the attorney's fees, or it could order Jung Ye to file unsealed invoices with the court. Thus, the amount of attorney's fees, or the fact that the invoices are currently sealed, is not fit for appellate consideration. In addition, there is no evidence that great hardship will result to the parties if the court reserves judgment on this matter until more information is before it. Therefore, the court will not address the amount of attorney's fees (as there is no precise amount), or the fact that Jung Ye submitted the invoices for her attorney's fees under seal.

[31] The trial court's establishment of a \$25,000.00 preliminary cap on attorney's fees, by contrast, is ripe for review, because the amount of the cap has been determined by the trial court. The Guam Code provides that a court may "in its discretion, require the husband or wife, as the case may be, to pay as alimony any money necessary for the prosecution of the action." 19 GCA § 8402. We look to California cases that discuss the statute upon which section 8402 is based for guidance. *Cruz*, 2005 Guam 3 ¶ 9. Such cases have repeatedly held that "[t]he amount of attorneys' fees to be awarded is a matter in the sound discretion of the trial court and an order fixing such fee will not be reversed except upon a showing of an abuse of discretion." *Palmquist v. Palmquist*, 27 Cal. Rptr. 744, 755 (Ct. App. 1963); see also *Sigesmund v. Sigesmund*, 252 P.2d 713, 715 (Cal. Ct. App. 1953); *Loke v. Loke*, 217 P.2d 477, 478 (Cal. Ct. App. 1950). These courts interpret the amount "necessary" for prosecution of the action broadly, and focus on the circumstances and facts of each case. See, e.g., *Westphal v. Westphal*, 10 P.2d 119, 120-21 (Cal.

Ct. App. 1932); *Howton v. Howton*, 124 P.2d 837, 839 (Cal. Ct. App. 1942); *Sigesmund*, 252 P.2d at 715. Therefore, trial courts have substantial leeway in awarding attorney's fees in cases for support *pendente lite*. *Sweeley*, 170 P.2d at 471.

[32] In *Avnet v. Bank of America National Trust & Savings Ass'n*, the court of appeals upheld a trial court's award of attorney's fees and temporary spousal support, stating:

The trial court noted the legal and factual complexity of the case and the difficulty of getting complete and accurate financial figures together from all the diverse operations of defendant. The indications, of course, then were that the case would go to trial and would be bitterly contested and that the trial would cover an extended period. The award of \$25,000 on account was well within the bounds of reasonable judicial discretion.

42 Cal. Rptr. 616, 623 (Ct. App. 1965). In *Cruz*, this court upheld attorney's fees where the trial court considered the requested amount of attorney's fees, the payments already paid to the attorney, and invoices presented by the attorney. 2005 Guam 3 ¶ 12. We stated:

[I]t appears that the trial court considered the evidence presented, the abilities of the parties to pay, and the fact that [the husband] was the sole source of financial income during the marriage and continues to be the party generating the most income post divorce. . . . The court balanced the equities of the parties; the need of the Plaintiff to be compensated for expenses in order to bring this action, and the financial abilities of the parties post divorce.

*Id.* ¶ 14 (citations omitted). We also found that “[i]t is not this court’s place to crunch numbers and order the trial court to provide a detailed calculation.” *Id.* ¶ 15.

[33] It does not appear, as Byong Hi argues, that the trial court’s establishing a cap of \$25,000.00 was “patently unreasonable.” Appellant’s Br. at 22. First, Jung Ye alleged that attorney’s fees are necessary to “track down the assets that my husband has stolen and hidden” in Guam and Korea. RA, tab 38 at 4 (Decl. Pl. 2). Moreover, there is evidence that Byong Hi has transferred money and ownership of his property in order to avoid costs and to alter his reported income. As Byong Hi stated during his deposition, he determines his own salary each year

“based on how much [he] need[s].” RA, tab 67 at 160-62 (Byong Hi Dep.). Byong Hi also stated that he gave his sister \$820,000.00 to “keep” for him in Korea, of which she allegedly stole \$420,000.00. *Id.* at 154. The couple’s former residence, GBC, and shares of GCC have changed hands many times, usually for minimal to no consideration and apparently at the whim of Byong Hi. RA, tab 42 at Exs. A-G (Decl. Pl. 3); RA, tab 67 at 50-52 (Byong Hi Dep.). Moreover, Jung Ye has alleged fraud and that many of the transfers of the couple’s property are invalid. RA, tab 32 at 2-4 (Decl. Pl. 1).

[34] The court could reasonably conclude that these facts called for attorney’s fees approaching the cap it established of \$25,000.00. As in *Avnet*, the award is likely justified by “the legal and factual complexity of the case and the difficulty of getting complete and accurate financial figures together from all the diverse operations of defendant.” 42 Cal. Rptr. at 616. Moreover, the court required that Jung Ye provide an itemized invoice, which is undoubtedly evidence of Jung Ye’s costs in prosecuting this case, and limited the sum to what was “reasonable.” RA, tab 82 at 4 (Dec. & Order 2). Lastly, the amount paid for Jung Ye’s attorney’s fees will ultimately be taken out of her marital assets at the termination of the divorce suit. *Id.* Therefore, the court did not abuse its discretion in the November 5, 2013 decision and order.

## V. CONCLUSION

[35] We hold that the trial court did not abuse its discretion in setting the amount of temporary spousal support at \$5,000.00 per month. The trial court articulated a change in circumstances, as required by our decision in *Malabanan*, 2013 Guam 30, that justified this reduction. Moreover, the trial court did not abuse its discretion in establishing a cap of \$25,000.00 in attorney’s fees,

or in declining to modify this amount. Any other issue of the trial court's award of attorney's fees is not yet ripe for review.

[36] For the foregoing reasons, we **AFFIRM** the trial court's November 5, 2013 decision and order.

Original Signed : **F. Philip Carbullido**  
By

Original Signed : **Katherine A. Maraman**  
By

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F. PHILIP CARBULLIDO  
Associate Justice

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KATHERINE A. MARAMAN  
Associate Justice

Original Signed : **Robert J. Torres**  
By

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ROBERT J. TORRES  
Chief Justice