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The background of the cover features a dramatic, low-angle shot of a modern building's architectural elements. A large, dark, curved structure, possibly a walkway or a large overhang, dominates the foreground, leading the eye towards a bright, glowing light source in the distance. The sky is dark, and the light source creates a strong lens flare effect, with numerous thin, white lines radiating outwards, suggesting a sun or a powerful light fixture. The overall mood is one of modernity and architectural grandeur.

the  
PRACTICE  
of LAW

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and Koh Swee Yen

## CHAPTER 9

### FAMILY

#### Alfred Dodwell

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'I love your tattoo', I said to my fellow traveller, Alexandre. He was from Brazil and on a tour with me in Lucerne, Switzerland. The tattoo read 'Valentina'.

Who was Valentina? I was almost too afraid to ask. He was traveling alone. I feared he was going to tell me it was his ex-wife or ex-girlfriend. Many tattoos have been done in a love stupor only to a lifetime of regret. He beamed as he told me 'It's my daughter's name, I am going home to see my family tomorrow.' That was a relief. He was on a business trip, having worked out of China for some time. He went on to share with me about his lovely family.

I love family and have a tattoo of my family name in Thai. But I grew up in a conservative Christian family where tattoos were taboo. 'It is evil', my mother said. She was a no-nonsense homemaker. My dad had lashed out at my brother over his minute butterfly tattoo. I knew that tattoos were frowned upon by my parents. So I had mine done only recently during a family holiday in Thailand.

We are all part of a family, either literally or metaphorically. We refer to close friends as 'bro' or say that they are 'like family to me'. Family signifies a bond, a closeness that is unsurpassed by any other relationship.

Man meets woman. They fall in love. They marry. They go on honeymoon. Nine months or so later, they have a child. This is the typical portrayal of a family nucleus. It is all beautiful, save that we do not live in a perfect world.

Man sees another woman. He falls in lust for her. He has an affair. The wife is innocently browsing through the family computer, missing her husband who is away on a business trip. She stumbles across his MSN chat history and she reads on to find that her Romeo has another Juliet. All hell breaks loose. What he told her was late night work on the computer has actually been late night e-thrill rides. He has not penned one love letter since they married but has written words of affection in poetry to his mistress describing their planned tryst during the trip.

She picks up the phone wondering 'Romeo wherefore art thou'? He was panting as he answers the phone and she harangues him with expletives which on film would have attracted an RA (Restricted) rating. His game is up.

Her next call is to her mother. She cries to her. Her mother calls her elder sister. Her elder sister calls her. She puts her mother-in-law on call-waiting to talk to her elder sister. Her mother-in-law calls her husband and sighs louder than the last train that pulled out of Tanjong Pagar.

She talks to her elder sister, a savvy banker, who tells her clinically, 'Not to worry, I have a friend who is a matrimonial lawyer. He did a fine job for one of my friends and he will give your husband hell for this. I will make the appointment'.

My phone then rings. It is a Friday afternoon. I had just put my phone down after making reservations for a nice dinner date with my wife. We also had plans to take the children to the zoo on Saturday. This was before the advent of Universal Studios when most parents became 'Friends of the Zoo' in order to make repeated visits more economical. Being the typical Singaporean, I sought to use it 'to the max'. My banker friend tells me about her sister's woes. I listen. I asked that her sister meet me with her marriage certificate and a print-out of the relevant MSN chat history. Her sister was also advised to look for other tell-tale signs of the husband's affair. Interestingly, many men who have affairs tend to be sloppy and leave evidence of them.

She tells me her sister is distraught. She is only 25 and her husband is 32 turning 33 the following week. I suppose he wanted his cake earlier than the wife had planned. She married young. She was in love and met him during her internship at an advertising firm. Young love is nice and explosive. It is always nice to fall in love, but explosive because the young tend not to do the relevant background checks about the person they are so in love with.

I agreed to meet her at 8am on Saturday morning. I wanted to get this meeting out of the way so that I did not burn too much of my weekend, and perhaps could still make it for the 11.30am 'Elephants at Play' show.

Come Saturday morning, my phone rings. 'We are right outside your office'.

I usher them into our meeting room. My experience in matrimonial practice told me that I had to bring along a box of tissue. She was all red-eyed even as I sat down to talk to her. She came along with her mother and elder sister. The mother was holding her. I knew this was going to be a long meeting. The elephants would just have to wait. I begin with the usual introductory words explaining to her about the sacrosanct rule of solicitor-client communication privilege. This encourages the client to speak candidly to the solicitor as the solicitor cannot be compelled to divulge the communication against her will. I also inform her that she has the power to decide who she wants to bring into meetings, as I have to ask her some hard and personal questions, ranging from vivid details of the marriage to their finances.

She begins and sobs throughout the session. I scribble down notes. She is comforted by her mother with calming words but injected with venom by her sister. I could tell that her mother preferred forgiveness, healing and reconciliation whereas my friend, her sister, was hissing at the adulterous husband. I surmised that she never liked her brother-in-law. The aggrieved wife says she had called to confront him. He said he would return and explain, put down the phone and turned it off. He has since been incommunicado but is due back on Monday.

'What should I do?' she asks.

Inevitably, a matrimonial lawyer becomes a counsellor, the confidante, and in some cases, even a friend. As clients come to us, be they men or women, going through the throes of matrimonial woes, we connect and feel for them. They are often down and depressed. Some are distraught and lost. Bitterness, frustration and many other emotions are on display. It is not easy being a matrimonial lawyer, for unlike most other areas of practice, we see the deepest wounds and the trauma of betrayal by the one that they loved. Matrimonial lawyers have to help a client pick up the pieces of shattered dreams and a shipwrecked marriage. It is not easy. Why did I venture into matrimonial law practice in the first place?

This brings me back to the days I first started practice. I was in a medium-sized firm. I actually had better paying job offers but had heard many good things about this firm. My bosses were known as true gentlemen and I learnt much from them. I chose wisely. I learnt that whilst we ought to fight hard for our client and never cease to act in our client's best interest, it is also crucial to maintain decorum and respect at the bar, and to resist the mindset that the opposing counsel is always the enemy.

I started off practice with much passion and lived by the motto 'I shall ask no favours and I shall give none'. So I met every deadline and would not entertain any request for an extension of time from opposing counsel. But one of my bosses, a senior practitioner, told me that whilst he was impressed by my passion and hard work, I would make many enemies. He said, 'We do not have to win every battle, but we must win the war'. Senior lawyers have much good advice. This is the very reason we all go through a period as a practice trainee (in my day it was called 'pupillage') and I was fortunate to have two pupil-masters, both of whom became Senior Counsel. One was tough and difficult, but he wanted me to learn that there is no easy ride in the profession – it is hard work, research and dedication that will prevail. I did not appreciate his hard methods then, but I certainly learnt. My other pupil-master (I had the honour of being his first pupil) was a really focused, organised and methodological person. He was always teaching me when I assisted him at trials. He would take me out for lunch and share with me his strategies and reasons for certain questions asked during the trial.

So I was an infant lawyer in a firm which had a reputation for matrimonial lawyering. I learnt to meet clients, take down meticulous notes, gather relevant evidence from documents that clients gave us, and draft various legal documents such as Deeds of Separation and the divorce papers to be filed in court.

Like many young lawyers, I had grand visions of lawyering in court rooms, but I learnt that lawyering is more about painstaking hours of preparation, studying the case, understanding the client, researching the law, preparing written submissions and presenting them at the hearing.

One day, I was told that we had a new client and I was to meet her with one of my senior associates, two years my senior at the bar. She was very personable and helpful towards new lawyers in the firm. We sat down to meet the client.

‘I almost killed my husband last night’, the client blurted out.

The friendly banter we had prior to entering the room came to a halt. We asked her to explain.

She set out her tale. Coming from Kampar, Perak, West Malaysia to Singapore, she soon fell in love with the man she eventually married. He was a business man, but his business failed and he started to drive a taxi for a living. He drowned his sorrows in liquor. She was the subservient homemaker, running the house without a maid. She cooked, cleaned, mopped, washed and ironed. She took care of the three children, ensuring that they got to school promptly, finished their homework and were in bed on time. She was normally exhausted when she went to bed.

He would return home from work in the early hours of the morning, wake her up and demand intimacy with her. His sexual appetite was such that he wanted to also have anal sex against her will. She said he would hit her when she protested and then had his way with her. It was clear she was not in a marriage but a prison.

We wondered why she tolerated this for so long.

Her husband was the one who brought the money home as her children were still growing up so she tolerated the abuse for many years. Now that her elder daughter and son were in the university, and the younger boy was in a polytechnic, she did not have to take it anymore. She came from a conservative Chinese family and she was too embarrassed to tell them about her ordeal.

I was stunned. I had come from a happy family background – my mother was strict but bags of fun and we had a happy home. My dad was the regimented civil servant, dedicated to his work. We had much fun on family holidays visiting my mother’s siblings in Kuala Lumpur or Penang. I grew up in a housing estate populated by civil servants. I grew up with children of civil servants and teachers, and we all had similar experiences with responsible parents.

The client told us she held a knife over her husband as he slept on the sofa. She had just endured another brutal session with him. She said she almost stabbed him.

My senior looked as stunned as I was. We excused ourselves from the room, came out and wondered what hit us. I was too junior to know what to do. We went with this story to our boss. He was calm. He said, ‘Alright, I will see her now’. We followed him back to the meeting room. I was excited as I was wondering how he was going to advise the client. He walked in and soon he was advising her that it was not safe for her to remain in her home, that she should move out and thereafter claim maintenance from him. He outlined for her a plan of action that was clearly what she needed to hear.

Oftentimes, clients come to matrimonial lawyers and they are at a loss. They would have been speaking to family or friends and would have been given advice on what to do. Whilst there might be some good advice, it is sometimes drowned in a symphony of bad advice because they have spoken to too many people who have not been trained to deal with such situations. A classic case of ‘the blind leading the blind’ ensures.

Coming back to my client who is seated in front of me early this Saturday morning. She is 25 years old and works as a clerical staff in a small business. The boss whom she calls ‘Uncle Sam’ had learnt about her marital problems and offered to pay her legal costs. He just wanted her to get her divorce and be freed from her ‘cheating, lying husband’.

So here I am, taking down her detailed statement as she relays to me the story. From the time they first met, to the courtship, wedding, marriage and the sudden discovery of infidelity.

I notice a bump in her belly. She appears expectant. She is 4 months pregnant. The baby is due in November. ‘My son was born in November too’, I said. Sometimes a human touch helps. I thought I needed to let her know that I may be a lawyer, but I have a family too – a wife and two children. It helps to be married. I know the highs and lows of marriage life.

There is no guide book that tells us what advice to give at which stage and this is where a lawyer must make a judgment call. Whilst we always encourage parties to try counselling, in most cases, the client has spent many agonising months thinking things through before he or she graces the lawyer's office and so divorce is inevitable. In some cases, divorce is the best remedy, especially where there has been abuse or infidelity, or a fundamental breach of the sanctity of all marriages – the lack of respect for one another

I think Justice Judith Prakash describes the practice of family law best when she said, 'The practice of family law is one of the most challenging areas that a lawyer can engage in. This is because the job demands far more than knowledge of legal principles. Family lawyers must be skilled negotiators, competent litigators and compassionate counselors. They also need to have a great deal of emotional maturity in order to deal with the distress most clients experience while using the legal process to resolve domestic problems'.

I have done some pre-marital counselling and much post-marital counselling. I think marriage counselling comes naturally to matrimonial lawyers as they have encountered so many marriages over the years that they know what the critical signs and pitfalls are, and what it takes to make a marriage work.

So, as matrimonial lawyers, we have to make a judgment call as to whether there is an irretrievable breakdown of a marriage established by adultery, unreasonable behavior, desertion or separation. If is evidence to substantiate any of these, we can confidently proceed to file the divorce papers in court. Divorce proceedings are a two-stage process. There is the divorce itself and there are the ancillary proceedings which deal with custody of the children, maintenance of the wife and children and the division of matrimonial assets.

In Singapore, there are approximately 24,000 marriages and 7,000 divorces a year. Muslim marriages have their own regime administered by the Syariah courts. All other divorces are dealt with by the Family Court. Many couples spend a lot of money getting married. It is after all a significant occasion. However, a divorce also costs money and it often costs more than the wedding.

The Family Court performs a herculean task trying to deal with the many divorces that come its way. I suppose the best analogy is that which Newman, a character in the sitcom '*Seinfeld*', said about working in the post office – 'The mail never stops'. This is also true for cases being filed in the Family Court.

This brings me to an interesting case where I appeared before a very senior District Judge, known for her wit and intellect. I had to mention two cases before her. In one I was acting for the husband who was in arrears in his maintenance obligations. In the other I was acting for the wife who was claiming maintenance. I persuaded the judge to give an extension of time for the husband-client to pay. Immediately after that, I mentioned the next case for my wife-client and I sought to counter every argument the husband made in seeking an extension of time to pay his maintenance arrears. She looked at me. She smiled. I knew she had caught on. I smiled and told her, 'Your Honour, I am just doing my job'. This is the job of a matrimonial lawyer. We act for the husband. We act for the wife. We take instructions from client. We act in their best interest and we put forward their case.

A solicitor does not make up stories for the client but must be a good story-teller as we translate the client's story through statements tendered in court. If the client is the 'cheating, lying adulterer', the lawyer must seek to settle the case for the client especially if the marriage has broken down irretrievably; there is no reason to litigate on a lost cause. However, the court does take into account all circumstance that are relevant as it adjudicates on matters. So, for instance, if the adultery takes place in the context where the wife has refused the husband sexual intimacy for many years, it would be wholly unfair to restrict the husband to the same monastic lifestyle.

One client gave me a tear-jerker of a story of being courted at her workplace when she was young and innocent. She was a very attractive lady, big eyed, fair and very feminine. She showed me some photographs of her husband who was not a very attractive man, but who was quite the smooth-talker as evidenced from his flowery language in MSN chat records. She also had photographs of the husband's girlfriend who looked quite plain but who knew how to apply sufficient make-up to give the illusion of beauty – she was clearly not in the same league as my client. I told my client so and this cheered her up. It is important for a lawyer to be personable, approachable, friendly and understanding. We filed for divorce. The husband tried to give the excuse that he was on a business trip with a colleague. but he

conceded when we showed him the evidence, which included an erotic love note he had penned to his mistress that my client found in the house. The divorce was not contested. Many divorces in Singapore are uncontested for usually the death of the marriage is a foregone conclusion, and the funeral is the uncontested divorce hearing.

Then came the ancillary proceedings – the resolution of the issue of custody of the children, maintenance for the wife and children, and the division of matrimonial assets.

He did not want to provide maintenance for my client and offered a pittance for the child. The court decided that he should give her a \$15,000 lump sum maintenance and pay for the infant's maintenance based on a table of estimated expenses provided to court. The parties were given joint custody with care and control to my client and supervised access to the father.

He wanted the HDB flat to be wholly transferred to him on condition that he will repay her CPF with interest. The court ordered the flat to be sold in the open market and gave her 35% share of the sale proceeds, based predominantly on her indirect contributions over a short marriage. He was also ordered to pay the cost of the divorce proceedings, fixed at \$5,500.00, and cost of the ancillary proceedings, fixed at \$4,500.00.

She was happy with the result. He was not. He appealed. He lost. She then remarried a Swede and relocated to Sweden. Her ex-husband objected to the move, so we obtained a court order sanctioning the move with reasonable access terms for the father to visit the child in Sweden, and to also bring the child back to Singapore when the child was older. As long as divorcing couples have children, they inevitably have to interact – so it is always good to encourage the client to get over the bitterness of the divorce and to deal with the other parent with civility for the sake of the child. In fact, the Family Court encourages joint parenting to recognise the importance of both parents' involvement in the children's lives. But sadly the children of the failed marriage are often the victims – being forced to take sides, deprived of access to the other parent and the subject matter of pride-driven custody battles that are not about who is the better parent to provide care and control.

Some matrimonial battles in Singapore are fought out through appeals from the Family Court to the High Court and to the Court of Appeal. Needless to say, the media is also interested in celebrity divorces – Tiger Woods', Arnold Schwarzenegger's, and closer to home, radio disc jockey Glenn Ong's second marriage to Jamie Yeo. It is most interesting to note that the Huffington Post, an internet newspaper-blogsite, has a whole section devoted to monitoring celebrity divorces. This is the reality of the world we live in, where marriages and divorces are a part of our society. But a person can remarry and have a new lease of married life, albeit a little smarter from the experience.

My client has since added me to her Facebook account and I keep track of her happy life in Sweden. I have seen the child grow up, celebrating many happy birthdays. I even saw a recent photograph of the father visiting in Sweden and they all posed together for a photograph. It was evident from the smile that the wounds of the past had healed and they are working together for the sake of the child. I suppose that is the job satisfaction for a matrimonial lawyer – to help a client through a bitter divorce and ancillary battles and then see the parties heal, pick up the pieces of their life and go on to lead a happy life.

So this is the practice of a matrimonial lawyer. We handle many cases simultaneously. I firmly believe that marriage can be pure bliss or pure hell. It is up to the parties to determine this, but divorces are a reality. We meet many people and we always trust that we are all doing our part to heal the wounds of broken marriages, and to help people recover and move on to a better life.

As one case closes another one begins. I get another late night call, 'I think the child is not mine, I was tricked into marrying her'. I sigh and say, 'Okay, let's meet, and if you have any evidence or witnesses, please bring them along. We shall get to the bottom of this.'

Next stop, paternity test...