

COMMONWEALTH OF THE BAHAMAS

2023

IN THE SUPREME COURT

FAM/div/00040

FAMILY DIVISION

BETWEEN

CHRISTOPHER CHAPMAN

Petitioner

AND

MARJORIE CHAPMAN

Respondent

Before: The Hon. Madame Justice J. Denise Lewis-Johnson MBE

Appearances: Raymond Rolle of Counsel for the Petitioner
Deanne Pyfrom-Robinson of Counsel for the Respondent

Hearing Dates: 23rd January 2024; 14th March 2024; 23rd January 2025;

Property Adjustment – Long Marriage – Equal Sharing

JUDGMENT

Background

1. The Parties were married on the 17th December 1994 and there are no children of the marriage.

2. A Decree Nisi was granted on the 1st December 2023 on the grounds that since the celebration of the marriage the Respondent had committed adultery.
3. The Petitioner filed a Notice of Intention to Proceed on the 2nd April 2024 and an Affidavit of Means on the 9th April 2024. The Respondent filed similar documents on the 30th October 2024 and 6th November 2024 respectively. Both sought property adjustment.
4. The Petitioner obtained an injunction on the 10th May 2023 restraining the Respondent from disposing of matrimonial assets until determination of ancillary proceedings.

The Petitioner's Evidence

5. That the Petitioner earned twice as much as the Respondent throughout the marriage and thus contributed more to the acquisition of the marital assets.
6. That the Petitioner is originally a citizen of United States of America and the Respondent is a Bahamian citizen who "duped" the Petitioner into believing that the assets should be put in her name solely in their best interest for tax purposes.
7. That he trusted the Respondent and she sold and took the proceeds of \$23,000.00 of Lot 66, Lubbers Quarters Cay, Abaco, took \$29,000.00 out of their joint bank account and kept \$4,000.00 of his wages.
8. That the Petitioner is 64 years old, self-employed and earns on average \$3,600.00 monthly. He resides in the matrimonial home being Lot 67, Lubbers Quarters Cay, Abaco, Bahamas.
9. That the Respondent failed to pay NIB contributions for him from 2019 to 2022 in the amount of \$2,334.00 which he paid. The Respondent was President of Chameleon Construction Ltd. and he was listed as an employee. The Petitioner wishes to be reimbursed.
10. That the Petitioner wishes all assets divided and as the Petitioner contributed more, he should have a greater interest in the assets.

The Respondent's Evidence

11. That she is employed as an Office Administrator and earns \$3,680.00 monthly.
12. That the parties pooled their earnings during the marriage and acquired assets jointly. Some assets are in their names jointly, some are in their individual names.
13. That there is family debt totaling \$33,150.00.
14. That the Petitioner cashed in his life insurance.
15. That she sold Lot 66 Abaco Ocean Club Lubbers Quarters and the final proceeds were \$24,500.00. That approximately \$17,000.00 was used for her medical treatment, the balance was used for her living expenses and \$1,180 was paid for NIB on arrears owed.
16. That she denies removing \$29,000.00 from their bank account and keeping \$4,000.00 in wages.
17. That the Petitioner is in the matrimonial home rent free and she has to pay rent.
18. That the marital property be sold to pay marital debts and the remaining family assets be shared equally.

Issues

19. What are the marital assets?
20. What are marital or individual debts?
21. What are the parties' percentage interest in the marital assets?

Law and Analysis

22. Section 29 of the Matrimonial Causes Act ("MCA") lists the factors the Court must consider when determining distribution of marital assets provides that:-

"It shall be the duty of the court in deciding whether to exercise its powers under section 25(3) or 27(1)(a), (b) or (c) or 28 in relation to a party to a marriage and, if so, in what manner, to have regard to all the circumstances of the case including the following matters that is to say —

(a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

(c) the standard of living enjoyed by the family before the breakdown of the marriage;

(d) the age of each party to the marriage and the duration of the marriage;

(e) any physical or mental disability of either of the parties to the marriage;

(f) the contribution made by each of the parties to the welfare of the family, including any contribution made by looking after the home or caring for the family;

(g) in the case of proceedings for divorce or nullity of marriage, the value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring; and so to exercise those powers as to place the parties, so far as it is practicable and, having regard to their conduct, just to do so, in the financial position in which they would have been if the marriage had not broken down and each had properly discharged his or her financial obligations and responsibilities towards the other.

Decision

23. The parties were married for more than 27 years. By all accounts this is considered a long marriage and the starting point for the division of assets would be 50/50. The equal sharing principle would be applied as established in **White v White [2001] AER 1** where it was said “*as a general guide, equality should be departed from only if, and to the extent that, there was good reason for doing so...The need to consider and articulate reasons for departing from equality would help the parties and the court to focus on the need to ensure the absence of discrimination*”. This position is applied subject to the statutory considerations of Section 29 in property adjustment matters as the Court’s objective is to achieve a fair result in all the circumstances of the case.
24. It is agreed the parties pooled their resources and acquired assets. Some of the assets are held in the name of one party while others are held in joint names, they are all marital assets to be divided between the parties.
25. I accept the Petitioner’s evidence that the Respondent suggested putting assets in her name for convenience as he was not a Bahamian citizen. Having done so, the Respondent does not have a greater interest in those assets that are solely in her name. The same being for assets that may be solely in the Petitioner’s name.
26. The parties have provided slightly different list of what should be considered marital assets. The total list being:
1. Lot 66 Abaco Ocean Club, Lubbers Quarters [sold by the Respondent]
 2. Lot S5 Jacks Jungle Lubbers Quarters. Vacant 44,431 sq. ft. valued at \$95,526.00
 3. Lot M6 Jacks Jungle Lubbers Quarters. Vacant 39,487 sq. ft. valued at \$84,897.00
 4. Lot 67 Abaco Ocean Club Lubbers Quarters. Vacant 10,601 sq. ft. valued \$22,794.00
 5. Lot 59 Abaco Ocean Club Lubbers Quarters. Matrimonial home 10,039 sq. ft. Lot Developed with 300 sq. ft. home, 200 sq. ft. covered porch & 250 sq. ft. shed valued at \$172,000.00
 6. Dock slip 23 Abaco Ocean Club Lubbers Quarters valued at \$30,000.00
 7. One golf cart valued at Fifteen hundred dollars (\$1,500)
 8. Boat [in name of Petitioner] valued at Ten thousand five hundred dollars (\$10,500.00)
 9. Bank accounts in the names of the parties where jointly or individually
 10. Sums moved from the joint account after the breakdown of the marriage.

The Court considers the above the marital assets that are the subject of this matter.

27. As to the Petitioner’s loss wages of \$4,000.00, I do not find them to be a debt owed as no evidence was produced to substantiate same. I find the Respondent has no interest in the construction tools, equally there is no evidence to support her claim. As is often the case in these types of matters, parties are extreme in their request, hoping that among the numerous listings most things would be considered as having merit.
28. The Court accepts the Respondent’s submissions that the goal should be fairness, compensation and sharing. She relied on Lord Nicholls in **Miller v Miller; McFarlane v McFarlane [2006] VKHL 24** where he stated: “*In the search for a fair outcome it is pertinent to have in mind that fairness generates obligations as well as rights. Each party to a marriage is entitled to a fair share of the available property. The search is*

always for what are the requirements of fairness in the particular case.” Lord Nicholls further stated: “this ‘equal sharing’ principle derives from the basic concept of equality permeating a marriage as understood today. Marriage, it is often said, is a partnership of equals. In 1992 Lord Keith of Kinkel approved Lord Emslie’s observation that ‘husband and wife are now for all practical purposes equal partners in marriage’: R v R [1992] 1 AC 599. 617. This is now recognized widely, if not universally. The parties commit themselves to sharing their lives. They live and work together. When their partnership ends each is entitled to an equal share of the assets of the partnership, unless there is a good reason to the contrary. Fairness requires no less. But I emphasise the qualifying phrase; ‘unless there is good reason to the contrary’. The yardstick of equality is to be applied as an aid, no a rule”.

29. I do not find a reason, event or circumstance that would cause the departure from the parties being entitled to an equal share. The Court had particular regard for each of the Section 29 considerations, and the parties are on equal footing.
30. I must address the blatant sale of Lot 66 without consultation or consent. The Respondent acknowledged selling Lot 66 Abaco Ocean Club but failed to provide the purchase price and a completion statement to support her statement of “final proceeds being \$24,500.00 The fact that the property was solely in her name does not negate the Petitioner’s equitable interest of 50%. This asset was acquired during the marriage and is a marital asset that should not have been disposed of without mutual consent and appropriate distribution between the parties. It is therefore my finding that half of the sale price is to be deducted from the Respondent’s interest. This sum can be determined from the conveyance.
31. While the Petitioner proposes a distribution by way of conveying the lots to each party, the value of each lot is different and this can result in a disproportionate distribution of the assets. The Respondent provided an appraisal of the lots and the Petitioner did not object to it. The Petitioner resides in the matrimonial home which is valued at \$172,000.00. It is ordered that the Petitioner receives sole ownership of:
 - i. The matrimonial home
 - ii. Lot 67 Abaco Ocean Club Lubbers Quarters
 - iii. Dock Slip 23 Abaco Ocean Club Lubbers Quarters
 - iv. The Boat

The Respondent receives sole ownership of:

- i. Lot M6 Jacks Jungle Lubbers Quarters
 - ii. Lot S5 Jacks Jungle Lubbers Quarters
 - iii. She keeps the proceeds of the lot she sold
 - iv. The golf cart.
32. The parties are to share equally the funds in the joint and personal bank accounts subject to the accounting and the appropriate adjustment for funds taken by one/any party after the breakdown of the marriage for their personal use.
33. As to marital debt, the credit cards are solely in the name of the Respondent and no evidence was provided as to when and for what, was the debt incurred. The Court is not aware if the expenses were for the family, family business or after the breakdown of the marriage. I do not find them to be family debt. As to the National Insurance debt and

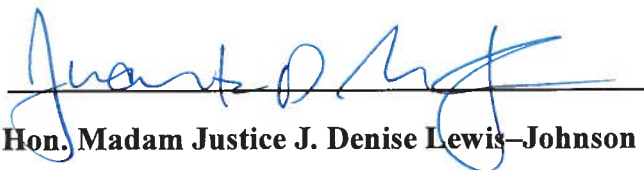
annual corporate fees of \$1,150.00, these are marital debt to be shared between the parties. Each party is to keep their insurance policies with liberty to dispose of them as they wish.

Conclusion

34. Having considered the evidence of the parties and the applicable law the Court makes the following property adjustment Order:

1. The Petitioner is entitled to:
 - i. The matrimonial home
 - ii. Lot 67 Abaco Ocean Club Lubbers Quarters
 - iii. Dock Slip 23 Abaco Ocean Club Lubbers Quarters
 - iv. The Boat
2. The Respondent is entitled to:
 - i. Lot M6 Jacks Jungle Lubbers Quarters
 - ii. Lot S5 Jacks Jungle Lubbers Quarters
 - iii. She keeps the proceeds of the lot she sold
 - iv. The golf cart.
- a. The following marital debt is to be divided equally between the parties and paid. NIB of \$9,000.00 and Chameleon Construction Company corporate fees of \$2,300.00.
- b. Funds in joint and personal bank accounts are to be shared equally after adjustment for funds removed for personal use by either party after the breakdown of the marriage.
- c. Each party to retain their insurance policies to manage as they determine
- d. No order as to cost.

Dated this 19th day of September, A.D. 2025



The Hon. Madam Justice J. Denise Lewis-Johnson MBE