IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Family Division

2023/FAM/div/00188

B E T W E E N

R.B.

Petitioner

AND

O.B.

Respondent

Before: The Honorable Justice C.V. Hope Strachan

Appearances: Christopher Francis for the Petitioner

Judith Smith for the Respondent

Hearing date: 15th July, 2025

Matrimonial proceedings, property adjustment, deciding what is fair, equal sharing principles, s. 29. MCA considerations, departure from equal sharing principles, need, compensation, and sharing, computation or distribution of marital assets.

RULING

C.V.H. STRACHAN, J

BACKGROUND FACTS

[1.] The Petitioner, R.B ("the husband") and the Respondent, O.B ("the wife") have asked for the Court's intervention to decide the issue of the distribution of the proceeds of the sale of the one matrimonial asset they acquired during the marriage, being Lot Number 5B of Parcel Number 5 of the Subdivision by Terra Limited situated in the Western District of the Island of New Providence. The property was sold for Two Hundred and Fifty Thousand Dollars **$250,000.00,** and after the payment of all of the related expenses, they realized the sum of Two Hundred and Twenty-Three Thousand Two Hundred and Fifty-Eight Dollars **$223,258.00**.

[2.] By way of relevant background information, the parties were married on 22nd March, 2021, and the marriage officially ended when the husband obtained a Decree Nisi on 20th October, 2023, on the grounds of the wife's cruelty towards him. There is one child of the marriage, a 5-year-old girl, for whom arrangements for her custody, care, and maintenance were made by way of a consent order between the husband and wife made on the same day. The arrangements for the child facilitated the grant of the Decree Absolute on 20th October 2024. Clearly, the marriage of Three **(3)** years and Seven **(7)** months was of short duration.

[3.] Notwithstanding the brevity of the marriage, it was clear that the couple did not waste any time contemplating the future provision for their family. Not long after the marriage, they commenced construction of a triplex on the property they were gifted. It is not disputed by the parties that the property was initially owned by the wife's father, who conveyed it to his two children, being the wife and her brother. Contrary to what is apparent on the copy of the document back sheet, the husband insists the property was a wedding gift to the wife and him from the father. This is disputed by the wife, who alludes to there being some pressure exerted on the brother to convey his half-interest in the property to the husband. What could not be disputed is that the property was ultimately conveyed jointly to the husband and wife, by the wife and her brother. Neither the husband nor the wife alluded to the fact that any money was paid to the brother for his interest in the property. The consideration expressed in the document is only Ten Dollars ($10.00). I am led to conclude that the property was a gift to the couple.

[4.] The need for a property adjustment order was envisaged in the Petition filed by the husband, and the Notice to have the matter adjudicated was filed on 5th March, 2025, by the wife. To support her application, the wife filed an Affidavit of means on 5th March, 2025, and a second affidavit on 14th July, 2025. The wife's father, Mr. O, also filed an affidavit on 14th July, 2025, attesting to the disposition of the matrimonial property and the mode of transfer of its ownership to the wife and her brother. His evidence contradicts the husband's contention that the wife's father intended to give the property to the couple as a gift. He said once he conveyed the property to his daughter (the wife) and her brother, he had nothing further to do with the property. The husband filed his Affidavit of Means on 8th July 2025.

[5.] The wife's Summons is grounded in s. 28 and 36 of the Matrimonial Causes Act, Chapter 125 of the Statute Laws of the Bahamas ("the MCA" or "the Act"), which empowers the court as defined hereunder. The application under s.36 was brought because the wife alleges she is owed Eleven Thousand Eight Hundred Sixty-one Dollars and Fifty cents ($11,861.50) arrears of maintenance (which is likely to increase at the time of delivery of this ruling) with reference to the maintenance order for the child of the marriage made on 20th October, 2023. This is not disputed by the husband, and he has said that he is willing to pay the arrears from his portion of the proceeds of the sale of the matrimonial home.

[6.] **The Issues Are Narrow**

> (i) Whether the husband or the wife has a larger interest in the matrimonial property than the other party and therefore to the proceeds of the sale of that property.
>
> (ii) Whether the court should grant leave to the wife to enforce the arrears of maintenance owed to her by the husband.

[7.] **The wife's standing resides in the Matrimonial Causes Act (MCA), Chapter 125 Statute Laws of the Commonwealth of the Bahamas.** The provisions referenced here are what have informed the decision of this court.

> s.25. (1) The financial provision orders for the purposes of this Act are the orders for periodical or lump sum provision available (subject to the provisions of this Act) under section 27 for the purpose of adjusting the financial position of the parties to a marriage and any children of the family in connection with proceedings for divorce, nullity of marriage or judicial separation and under section 31(6) on proof of neglect by one party to a marriage to provide, or to make a proper contribution towards, reasonable maintenance for the other or a child of the family, that is to say;
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> (2) The property adjustment orders for the purposes of this Act are the orders dealing with property rights available (subject to the provisions of this Act) under section 28 for the purpose of adjusting the financial position of the parties to a marriage and any children of the family on or after the grant of a decree of divorce, nullity of marriage, or judicial separation, that is to say;
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> > — (a) any order under subsection (1)(a) of that section for a transfer of property; (b) any order under subsection (1)(b) of that section for a

settlement of property; and (c) any order under subsection (1)(c) or (d) of that section for a variation of settlement.

(3) Where the court makes under section 27 or 28 a secured periodical payments order, an order for the payment of a lump sum or a property adjustment order, then on making that order or at any time thereafter, the court may make a further order for the sale of such property as may be specified in the order, being property in which or in the proceeds of sale in which either or both of the parties to the marriage has or have a beneficial interest, either in possession or reversion.

(4) Any order made under subsection (3) may contain such consequential or supplementary provisions as the court thinks fit and, without prejudice to the generality of the foregoing provision, may include;

(a) provision requiring the making of a payment out of the proceeds of sale of the property to which the order relates, and;
(b) provision requiring any such property to be offered for sale to a person, or a class of persons, specified in the order.

S. 28. (1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may make any one or more of the following orders, that is to say —

(a) an order that a party to the marriage shall transfer to the other party, to any child of the family, or to such person as may be specified in the order, for the benefit of such a child, such property as may be so specified, being property to which the first-mentioned party is entitled, either in possession or reversion;

(b) an order that a settlement of such property as may be so specified, being property to which a party to the marriage is so entitled, be made to the satisfaction of the court for the benefit of the other party to the marriage and of the children of the family or either or any of them;

(c) an order varying for the benefit of the parties to the marriage and of the children of the family or either or any of them, any ante-nuptial or post-nuptial settlement (including such a settlement made by will or codicil) made on the parties to the marriage;

(d) an order extinguishing or reducing the interest of either of the parties to the marriage under any such settlement;

S. 29. (1) 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.

S .36 (1) A person shall not be entitled to enforce through the court the payment of any arrears due under an order for maintenance pending suit, an interim order for maintenance, or any financial provision order without the leave of that court if those arrears became due more than twelve months before proceedings to enforce the payment of them are begun. **[Emphasis Mine]**

(2) The court hearing an application for the grant of leave under this section may refuse leave, or may grant leave subject to such restrictions and conditions

(including conditions as to the allowing of time for payment or the making of payment by installments) as the court thinks proper, or may remit the payment of the arrears or of any part thereof. **[Emphasis Mine]**

(3) An application for the grant of leave under this section shall be made in such manner as may be prescribed by rules of court.

DISCUSSION AND ANALYSIS

[8.] I am constrained by Bahamian authority to give priority to the S. 29 considerations in deciding whether either of these parties is entitled to a larger interest in the proceeds of the sale of the Triplex, following the Court of Appeals guidelines in **Jupp v. Jupp** [2013] 1 *BHS J.* No. 131, where they expounded on the judge's rationale at first instance;

> "*In her ruling, the learned trial judge correctly stated the law and referred to numerous cases from the United Kingdom which she deemed applicable. Her main focus was the case of **Charman v Charman** (2007) EWCA Civ 503, in which the court emphasized that, "property should be shared in equal proportions unless there is good reason to depart from such proportions." The court there further described the evaluation process a distributing court should undertake when determining what share of matrimonial assets a party should receive. In the eyes of the court in **Charman,** it is a two-stage process, the first stage being computation, the latter being distribution. Distribution should take place around three distributive principles: need, compensation, and sharing.*
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> *It must be remembered that authorities from the United Kingdom cannot trump what the statute law of The Bahamas says. It is only if these cases are consistent with the statute law that they can apply. Section 29 is very clear as to what a judge must take into consideration when considering whether to exercise their powers under section 27 or 28, or even section 25 of the Act. Any sharing principle enunciated by case law must be construed in this light. The statute requires that you look at all the circumstances and you make the order which puts the parties in the financial position so far as it is practicable that they would have been in if the marriage had not broken down. The division of the assets must be fair in its entirety. It is not the role of the trial judge to list the assets of the family and to divide them one by one. The trial judge must look at the circumstances on the whole, examine the entire context.*

My Evaluation of the Considerations in Light of Couples' Circumstances Are as Follows;

The Income and Financial Resources of the Parties

[9.] Little seems to have changed regarding the couple's financial situation in the short years of the marriage. The wife is employed at the National Insurance Board (NIB), where she earns a monthly income of Five Thousand Two Hundred and Twenty-Two Dollars **($5,222.00)** per month. She has been employed with NIB since 2010. This is indicative of a steady source of income with no suggestion being made of any significant change in the future. The wife's monthly financial obligations are listed by her and total Two Thousand Forty-Eight Dollars and Eighty Cents **($2,048.80).** The sum of at least Six Hundred Sixteen Dollars and Thirty-Two Cents **($616.32)** is added to those expenses by way of sharing the maintenance and fees for the child of the marriage with the husband, based on the court order.

[10.] The husband states simply that he is unemployed and is seeking reasonable employment. The husband listed his personal monthly expenses as Three Thousand Thirteen Dollars **($3,013.00)** and an obligation towards two children not of the marriage with the wife. While he did not list the money he was ordered to pay for his daughter with the wife, we know based on the wife's affidavit that the monthly average Payable is about Six Hundred Dollars (**$600.00**). The husband's total monthly obligation is about Four Thousand Three Hundred Dollars **($4,300.00).**

[11.] Neither party has indicated that they have any other source of income or savings. Their biggest investment from the marriage is the Matrimonial home. There is no indication that either has a greater prospect than the other of acquiring any property or other financial resources in the foreseeable future.

The Needs of the Parties

[12.] Aside from the fact that having sold the matrimonial home, resulting in both parties now being faced with securing living accommodation, the financial needs and obligations that the parties have or are likely to have in the foreseeable future are significantly different. As an unemployed man with three children, ages 16, 11, and 5 years, requiring maintenance, the husband is obviously facing the financial obligations of three **(3)** children as opposed to the wife's current obligation to one **(1).** Since the husband has not intimated that either of the other two **(2)** children is his sole responsibility, or whether they even reside with him, it is impossible to say whether he has to provide living accommodation for them. However, his obligation to adequately maintain them as it relates to all of their needs, I will not ignore. The 5-year-old child of the marriage is to live with the mother according to the arrangements already made for her well-being, and as such, it is obvious that the wife has a need to provide a home for her.

The Standard of Living Enjoyed by The Parties

[13.] The wife's depiction of the marital living situation was that the family got started in a condominium that she owned, paid the mortgage solely, and which she soon sold. After selling, they moved into an apartment owned by the husband's father. She emphasized that even while their residential situation was thus, she was also responsible for paying all utilities and maintaining the home, child, and family. The husband did not refute the wife's assertions. It stands to reason that while the couple may have enjoyed a fairly decent middle-class lifestyle, much was at the expense of the wife and/or dependent upon the benefaction of relatives. This, of course, extended to the acquisition of the one matrimonial asset. It is unlikely that the wife who has demonstrated throughout the marriage a willingness to apply her resources to ensuring obligations are met would change so significantly to negatively impact her standard of living. As far as the husband is concerned, maintaining the standard of living enjoyed by the family before the breakdown of the marriage might prove to be challenging since he was so dependent upon the wife for that standard. It might prove advantageous if he were to find employment.

The Age of the Parties.

[14.] The husband indicated that he is 41 years of age. The wife is about four **(4)** years younger than the husband. Neither has indicated that their age will affect their ability to build their respective lives now that they are divorced. The Three **(3)** year duration of the marriage is considered short by any standards, and there is legal authority that acknowledges that this could be significant when all considerations are contemplated.

Any Physical or Mental Disability of the Parties

[15.] The consideration of any physical or mental disability of either of the parties to the marriage has not been indicated by either of the parties to the marriage that such is of any significance.

The Value to Either of the Parties of the Marriage of Any Pension.

[16.] 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. This, of course, according to s.29 (1)(g), but need not be a factor in the present proceedings as neither of the parties has mentioned any such concerns.

Contributions by The Parties to The Welfare of the Family

[17.] s.29 (1)(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, is often misinterpreted by the parties to marital proceedings as being confined to contributions either to the acquisition of the marital asset or towards its preservation. Those contributions are also often defined through money contributions to either payments for the purchase or construction of the asset or payments made to the mortgage, whereby the asset was purchased. However, s. 29 (1)(f) must be viewed with specificity. It speaks directly to contributions made to the benefit or prosperity of the family. Those contributions extend far beyond money payments, but also to any contribution at all that proves to be valuable to the family.

[18.] It is common ground between the parties that the Triplex is matrimonial property consistent with the description in **Wachtel v Wachtel**. The Court of Appeal Civil Division [1973] 1 All ER 830 aptly described it, and because of its continued relevancy, I adopt it;

> *"The phrase 'family assets' refers to things acquired by one or other or both parties with the intention that they should be a continuing provision for them and their children during their joint lives and used for the benefit of the family as a whole. Family assets include (a) capital assets, such as the matrimonial home and the furniture in it, and (b) revenue-producing assets, such as the earning power of husband or wife. When the marriage ends, the family assets have to be reallocated. Section 5 (i)(f) of the 1970 Act recognizes that a wife who has looked after the home and family for many years is entitled to a share in the matrimonial home if the court concludes that the home has been acquired and maintained by the joint efforts of husband and wife"* **[Emphasis Mine]**

s. 5 (i)(f) of the British Act parallels our s.29 (1)(f) of the MCA.

[19.] The S. 29 provisions are germane to achieving fairness between the parties, which is always this court's objective, and the provisions of s. 29 (1)(a) – (g) factor in all of the relevant considerations. As a corollary, the modern-day authorities expound on this approach repeatedly. For instance, in **Av B (2009)** Fam/div/00132 – *Sir Michael Barnett*, Acting Justice as he then was, expressed it this way;

> *".... the modern approach to a division of property in a marriage is equal sharing of property unless there is a compelling reason to depart from that equality."*

[20.] Foremost in my contemplation is the manner in which the property was acquired (a gift from the wife's family), coupled with the short duration of the marriage. In some cases, this may be the deciding factor. In ***Miller v Miller; McFarlane v McFarlane*** *[2006] 3 All ER 1* per the UK *House of Lords;*

> (1) *In the case of a short marriage, fairness might well require that the claimant spouse should not be entitled to a share of the property which the other spouse had brought with him or her into the marriage or acquired by inheritance or gift during the marriage (non-matrimonial property). Section 25 of the 1973 Act required the court to have regard to all the circumstances of the case, and there was a real difference between property acquired during the marriage otherwise than by inheritance or gift (matrimonial property) and other property. The former was the financial product of the parties' common endeavor, and the latter was not (see [22]–[24], [55], [101], [147], [148], [160], [192], below);* ***White v White*** *[2001] 1 All ER 1 considered.*
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> *(2) (Per Lord Hoffmann, Baroness Hale and Lord Mance) In the small number of cases where it was relevant in relation to matrimonial property to distinguish between family assets (things acquired for the use and benefit of the whole family) and other assets, the source of the assets could be taken into account, but its importance would diminish over time. The court was expressly required to take into account the duration of the marriage; if the assets were not family assets or not generated by the joint efforts of the parties, then the duration of the marriage could justify a departure from the yardstick of equality of division (see [69], [100], [149]–[152], [159], [182], [169], below);* ***White v White*** *[2001] 1 All ER 1 considered.* **[Emphasis Mine]**

[21.] Equipped with the principles of this authority, I have interpreted and accept that in whatever the existing circumstances of the couple's lives and even in the case of short marriages, the overarching objective is to achieve fairness between the parties.

[22.] Here, the relevant factors include, but are certainly not limited to, the value of the property and who contributed money to its acquisition and maintenance, as mentioned before, but it also includes the other activities within the marriage that contributed to the well-being of the family. There is a paucity of information in that regard, but from what little has been provided, it is clear that the husband's participation in the day-to-day activities in the home was limited. In every instance, the wife either paid or participated in the payment of all of the couple's bills. She paid the mortgage on her own when they lived in her apartment. She paid the utilities there as well. She assisted with the payment of the utilities when they moved to the husband's father's apartment. The striking difference, though, is the husband's total lack of involvement in maintaining their child. According to their respective affidavits, the husband demonstrated a total lack of contribution in that regard. An examination of all of the factors is critical to my decision.

Acquiring The Matrimonial Property;

Computation

[23.] The wife's father conveyed the property to her and her brother. By some disputed means, the property ended up in the wife's and husband's names. The wife describes it as her brother conveying his interest to the husband. However, the wife is required by law to join in passing the legal title, joined her brother in conveying the property to herself and the husband. As neither party saw fit to exhibit the whole conveyance, it is impossible for this court to determine whether the conveyance was to them as joint tenants, although this might well have presented some influential implications. There is no date other than 2022 on the back sheet of the conveyance exhibited in the husband's affidavit. The recording date is 29th September, 2022, and the consideration expressed on the backing sheet was Ten Dollars **($10.00),** which I view as ensuring the efficacy of the document, and for stamp duty purposes. There is no doubt in my mind that the brother conveyed his interest to the couple with his sister in mind. It is a gift that was precipitated by the marriage and through the brother's love and affection for his sister.

[24.] It has been established that the inference may be drawn that gifts of this nature are intended as a gift to both of them. **Abbott v Abbott** [2008] 1 FLR 1451 - Privy Council - *Lord Bingham of Cornhill, Lord Walker of Gestingthorpe, Baroness Hale of Richmond, Lord Carswell* and *Lord Neuberger of Abbotsbury,* considering the following facts:

> *"About a year after the marriage between the Canadian wife and the Antiguan husband, the husband's mother transferred a plot of land in Antigua into the husband's name. The couple moved between Canada and Antigua for some years, during which time their two children were born. After a final return to Antigua, the couple built a matrimonial home on the gift of land,*

financed partly by a loan that later became a mortgage, and partly by gifts from the husband's mother. The husband was the legal owner, but the wife was jointly and severally liable for repayment of the loan/mortgage; insurance policies on both lives secured the loan. The husband's income went into a joint account from which all expenditure was paid, including the purchase of furniture and the payment of mortgage installments and insurance premiums; for the short period during which the wife worked outside the home, her income also went into the joint account. The husband moved out of the matrimonial home, and after a brief attempt at reconciliation, divorce proceedings began. Under the law of Antigua, property disputes between married couples had to be resolved according to the ordinary law; the wife claimed half the property, half the value of the furniture, and half the value of certain shares held by the husband. In the High Court, the judge concluded that the house, the furniture, and the shares were beneficially owned by the husband and wife equally. The Eastern Caribbean Court of Appeal allowed the husband's appeal; the wife appealed to the Judicial Committee of the Privy Council."

Held – allowing the wife's appeal in relation to the property and the furniture, which the husband held on trust for both husband and wife in equal shares, dismissing the wife's appeal in relation to the shares –

(2) If a parent gave financial assistance to a newly married couple to acquire their matrimonial home, the usual inference in England was that it was intended as a gift to both of them. While it might be doubted whether such an inference could so readily be drawn in countries other than England, in this case, a Caribbean judge had at first instance drawn the same inference, and it was not for the committee to say that it was an inference the final judge was not entitled to draw.

[25.] Notwithstanding that the inference could be drawn, there is no strict principle to be applied, and the matter is open to deduction. Authority can be found in Halsbury's Laws of England Gifts (Volume 52 (2020)) Gift to intended spouse or civil partner.

There is no particular principle of law applicable to wedding presents or presents relating to the registration of civil partnerships to make them joint gifts to both spouses or civil partners; where there is evidence of intention on the part of the donor such a gift may be found to have been given either to one party or to the other, or to both, but where no intention is clear the inference may be drawn that gifts originating from each party's family and friends were intended for that party. **[Emphasis Mine]**

[26.] Due to the events surrounding the Conveyance to the wife and husband, and the wife being a joint owner first with her brother and then with her husband, she obviously made a more substantive contribution towards the triplex. Therefore, I am attributing the larger share of the only asset achieved in the marriage to the personage of the wife. This is in keeping with the obligation to consider all of the circumstances of the case. I therefore attribute a three-quarter (**¾**) share of the vacant land to the wife. I attribute one-quarter (**¼**) to the husband.

[27.] The wife does not dispute that the structure/foundation of the triplex, which was built on the property, was put there by the husband without any contribution from her. She states that they agreed that she would pay the household bills while the husband saw to the construction. The value of the structure must therefore be attributable to the husband. I believe the Appraisal Report dated 2nd February, 2024, addressed to the husband but exhibited to the wife's Affidavit filed 5th March, 2025, is helpful in this regard. It describes the property as a vacant parcel of land with unfinished Triplex Townhouses valued at Fifty-Two Thousand Eight Hundred Dollars **($52,800.00)**. Curiously, both parties have departed from the use of this valuation and have argued for the valuation to be based on the amount of money the husband expended on the structure, although they differ on the issue of just how much that actually was.

[28.] The Appraisal puts the fair market value of the property with the triplex structure at One Hundred and Eighty Thousand Dollars **($180,000.00)**. Of that value, the vacant land accounts for One Hundred and Twenty-Four Thousand Seven Hundred Eighty-two Dollars and Fifty-Nine cents **($124,782.59),** and the unfinished Tri-plex structure at Fifty-Two Thousand Eight Hundred Dollars **($52,800.00)**. The husband claims to have spent One Hundred and Twelve Thousand Five Hundred **($112,500.00)** on the triplex building, which he says he started before the conveyance to him by the wife and her brother. He brought the structure up to the belt course over the time of the marriage. He purported to support his claim by exhibiting several receipts in his affidavit. The wife refutes the veracity of the receipts, commenting that they may well have been receipts for other construction projects that were ongoing for the husband during the time period of the receipts. These receipts, the wife says, total Twenty-nine Thousand Seven Hundred and Fifty-two Dollars and Twenty-five cents **($29,752.25),** which should be deducted from the husband's assessed One Hundred and Twelve Thousand and Five Hundred Dollars **($112,500.00)**. The wife has created a chart which demonstrates how several of the husband's receipts could not be related to the tri-plex because they do not fit the time frame for the stage of the building process. Other of the receipts she pointed out are in other persons' or places' names. This would put his cash investment reasonably at Eighty-two Thousand Seven Hundred Forty-eight Dollars and Seventy-seven cents **($82,748.77)**. This court is satisfied that the receipts, specified by the wife in her flow chart, are questionable for the very reasons she has pointed out. Moreover, I also found the sequential numbering in the receipts in certain instances, the similar handwriting in other instances, and the fact that others of the receipts are illegible or of dubious conception supportive of the wife's contentions.

[29.] Using the wife's calculation of the husband's actual expenditure on the tri-plex of Eighty-two Thousand Seven Hundred and Forty-eight Dollars and Seventy-seven cents **($82,748.77)** and adding the one quarter of the appraised value of the vacant land at Thirty-one Thousand One Hundred and Ninety-five Dollars **($31,195.00)** to him, his total cash contribution to the acquisition and development of the matrimonial property equals One Hundred and Thirteen Thousand Nine Hundred and Forty-three Dollars and Seventy-Seven Cents **($113,943.77).**

[30.] In treating with the wife's contributions, I would attribute her at least three-quarters value of the property for a value of Ninety-Three Thousand Five Hundred and Eighty-six Dollars and Fifty cents **($93,586.50).**

[31.] The wife's account of her expenditure on the household expenses and on the only child of the marriage over the two **(2)** years of the marriage totals approximately Seventy-three Thousand One Hundred and Fifty-two Dollars **($73,152.00).** It is often not possible to put a dollar amount on the actual care of a child. However, since the wife has endeavored to provide a calculation, it is difficult to ignore. Hence, when the wife's contribution to the land, Ninety-three Thousand Five Hundred and Eighty-six Dollars and Fifty Cents **($93,586.50),** is added to the household expenditure together with the expenses for their child, the total comes to One Hundred and Sixty-six Thousand Seven Hundred Thirty-eight Dollars and Fifty Cents **($166,738.50).** I am satisfied that the wife bore the brunt of not only the financial responsibility for the child of the marriage, but her evidence suggests that she was the principal caregiver. It is settled law that contributions of that nature should always be taken into consideration per **Charman** principles.

[32.] Without more, the computation of the wife's contributions to the family amounts to some Fifty-Two Thousand Seven Hundred Ninety-four Dollars Seventy-Three Cents **($52,794.73)** more than the husband's. This is a significant difference. Moreover, the nature of the wife's contributions was critical to the family's very survival and existence at the time, in particular the child of the family, as opposed to the husband's singular concentration on their future investment.

[33.] The parties have already sold the property at an amount that exceeds the appraised value. Comparing the parties' respective needs, the husband's counsel has submitted that the husband has two **(2)** other children that he must provide for. Provision includes housing and maintenance. As far as housing is concerned; Clearly, the Eleven **(11)** year old child does not reside with the husband. A sixteen **(16)** year old son resides with him. This, they submit, should tip the scales in favor of the husband when considering the parties' respective needs. The wife must provide for one **(1)** child. The difference in this scenario is that the son living with the husband will attain the age of majority in two **(2)** years, while the wife must provide for their child for the next thirteen **(13)** years. The wife now has the expense of building or purchasing land or a home, where she had been gifted land from her father. The husband apparently, through his father, has the availability of living accommodation, while the wife has sold her apartment unit after marriage to the husband. Moreover, the husband's cash expenditure on the triplex demonstrates that he has the wherewithal to attain alternative accommodation for himself. Couple that with the fact that the wife has to provide a home for herself and a 5-year-old, I place the wife's needs above the husband's.

[34.] The wife's admission that she and the husband agreed that she would pay the household bills while he concentrated on building the triplex, the husband's lawyer says, should preclude her from relying on the payment of those bills to her advantage. However, I could not help but glean from the wife's evidence that she bore the brunt of the day-to-day responsibilities in the marriage even before the specter of the property and the building of the triplex occurred. When the husband did not refute the wife's assertions that the jobs he claimed to have had at Royal Bank of Canada and Public Workers' Cooperative Union were before the marriage, it supports the wife's assertions regarding her bearing the brunt of the couple's financial responsibilities. The wife should be compensated for her superior contribution to the family in this regard.

[35.] In sharing the parties interests, fairly and based on the *Baroness Hale's* established view in **Miller v Miller /MacFarlane v Macfarlane** supra that equality takes place within the principle I consider that the wife's quantified financial contributions to the family which came about mainly through the gift of the property from her father and brother coupled with her sole responsibility for the financial expenses of the child of the family provides a compelling reason for a departure from the equal sharing principle and in distribution of their respective interests I am satisfied that the wife deserves a larger share in the property and ultimately in the proceeds of sale.

[36.] It is evident that had this marriage not broken down, the parties would have had a home and an investment property that might well have secured their respective futures and that of their child. However, the wife says that even while the husband was carrying out the construction on the triplex, she was uncertain about the sustainability of the marriage. She said in her affidavit, *"The marriage was rocky, and I told (husband) I did not see us living on the property."* It is difficult to see how either the husband or the wife will easily acquire a gift of property or an investment property without considerable expenditure, given the effluxion of time and inflation being what it is. Notwithstanding my conviction that the wife has made a considerably larger contribution to the welfare of the family, as I stated above, I am constrained to recognize the husband's obligations to his other children, given the court's overarching mandate to ensure the welfare of all children. In the premises, I deem a distribution of Sixty Percent **(60%)** of the proceeds of sale to the wife and of Forty percent **(40%)** of the proceeds of sale to the husband not only as a fair distribution, but it provides balance when the contributions of the parties are considered.

CONCLUSION AND DISTRIBUTION

1. Pursuant to the provisions of s. 25, 27, 28, and 29 of the MCA and the several authorities discussed herein, the factual circumstances of the marriage and counsel's submissions, I find that there is compelling reason to depart from the principle of equality.

2. The wife is entitled to Sixty percent **(60%)** of the proceeds of the sale of Lot Number 5B of Parcel No. 5 of the Subdivision Terra Limited, located at South Ocean, situated in the Western District of the Island of New Providence.

3. The husband is entitled to Forty percent **(40%)** of the proceeds of the sale of Lot Number 5B of Parcel No. 5 of the Subdivision Terra Limited, located at South Ocean, situated in the Western District of the Island of New Providence.

4. Leave is granted to the wife to enforce the arrears of maintenance due under the Consent Order dated 20th October, 2023, notwithstanding that more than twelve **(12)** months have expired since the making of the Order.

5. The Husband shall pay to the wife the sum of Twelve Thousand Seven Hundred and Eighty-five Dollars and Fifty cents **($12,785.50)** deducted from the proceeds of the said sale of Lot Number 5B of Parcel No. 5 of the Subdivision Terra Limited located at South Ocean situate in the Western District of the Island of New Providence representing arrears of maintenance owed to the wife up to September, 2025. This sum is to be increased according to the provisions of the consent order and based on the time of payment if made outside the relevant period of September 2025.

6. Each party shall bear their own legal costs of the proceedings.

Dated the 30th day of October A.D., 2025

The Honorable Justice C.V. Hope Strachan