IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Family Division

2024/FAM/div/FP/00016

B E T W E E N

BVC

Petitioner

AND

SDC

Respondent

Before: The Honourable Madam Justice Constance Delancy

Appearances: Constance McDonald, KC for the Petitioner

Cassietta McIntosh-Pelecanos with Louisiene Louissaint for the Respondent

Hearing date(s): 29 January 2026

Submissions: 23 February 2026

RULING

DELANCY, J

[1.] This is the Court decision on ancillary matters arising from the marriage between BVC ("the Petitioner") and SDC ("the Respondent"). The principal dispute concerns the identification and division of the matrimonial assets and the Petitioner's claim for financial provision.

Background

[2.] The parties were married 30 July 2011 and as of the date of the filing of the Petition were married for some 13 years. There were no children of marriage.

[3.] The Petitioner presented a Petition seeking the dissolution of the marriage on the grounds of cruelty which the Respondent did not defend.

[4.] On 29 May 2024 the Petitioner was granted a Decree Nisi which was made final on 20 January 2025.

[5.] On 27 February 2025, the Petitioner filed a Notice of Application for Ancillary Relief seeking settlement of the matrimonial property.

[6.] The parties filed affidavit evidence, gave oral evidence and were cross-examined at the hearing. The Petitioner relied upon her Affidavit of Means filed 26 February 2025 and her further Affidavit filed 21 October 2025. The Respondent relied upon his Affidavit of Means filed 2 October 2025 and Affidavit in Response filed 31 October 2025.

Evidence

[7.] The parties enjoyed what may fairly be described as a modest but reasonably secure standard of living during the marriage. Their financial circumstances were affected, as were those of many residents of Grand Bahama, by the effects of Hurricanes and subsequently the COVID-19 pandemic. Nevertheless, during the marriage they acquired and maintained several parcels of real property, some of which generated rental income.

[8.] Prior to the marriage the Petitioner worked as a teacher's aide. Upon the marrying the Respondent, she relocated to Grand Bahama and thereafter assumed the role of homemaker. Her evidence is that the Respondent discouraged her from working outside the home and told her that he could provide for her more than her teacher's aide salary. She says that she cooked, cleaned, maintained the yard, ran errands, supervised work being undertaken on the properties and assisted in managing and collecting rental income.

[9.] The Respondent disputes that he prevented the Petitioner from working and only sought to encourage her to do so after being served divorce papers. His evidence is that he encouraged her to seek employment and attempted to involve her in business opportunities, but she declined to do so.

[10.] There is a conflict in the evidence as to why the Petitioner remained outside the formal workforce. The Court does not consider it necessary, for the purposes of these proceedings concerning property division, to resolve that conflict entirely in favour of either party. What is clear is that the arrangement which in fact prevailed for a substantial portion of the marriage was that the Respondent was the principal wage-earner while the Petitioner performed the principal domestic functions and assisted in the management of the rental properties.

[11.] The Petitioner presently has no employment income. She alleges that she suffers from sciatic nerve and back pain which affects her capacity for employment. That the income garnered from the rental property was applied toward their bills and the remainder placed on the

Respondents account. No medical evidence was produced in support of that assertion. In cross-examination she accepted that the pain is not constant and she was confronted with photographs depicting her undertaking various physical activities.

[12.] The Respondent is employed as a night foreman. His disclosed monthly income is $4,137.96. His evidence is that overtime is neither guaranteed nor regular. His monthly expenses are in excess of his monthly salary. That the amount he spends on food has increased because he has to purchase food as he does not cook; and he has to pay for laundry services.

[13.] The Respondent disclosed that he is legally blind in one eye and partially disabled, which limits his employment and earning capacity. The Petitioner challenged the Respondent's claim of being legally blind, noting he works nights, drives without glasses, and was only told by a doctor he had a "lazy eye."

[14.] However, the Respondent produced medical evidence concerning his eyesight to the Court which supports the assertion of a significant visual impairment in his right eye, which can detect only light. Although he remains employed and continues to function independently, his impairment is objectively established and is a relevant consideration under section 29 of the Matrimonial Causes Act.

Real Property

[15.] Three properties are accepted by both parties as falling within the matrimonial assets: (a) Lot 90, Block C, Section 2, Grand Bahama East Subdivision ("Lot 90"); (b) Lot 171, Block D, Section 2, Grand Bahama East Subdivision ("Lot 171"); and (c) Lot 14, Block D, Section 2, Grand Bahama East Subdivision ("Lot 14").

Lot 90

[16.] Lot 90 comprises the matrimonial home and a separate rental unit capable of generating approximately $500 monthly when occupied. The parties hold the property jointly. The uncontested appraisal places its value at $209,646.00.

[17.] The Respondent gave evidence that Lot 90 was adapted with his visual impairment in mind, including the positioning of electrical switches and other fixtures. He presently resides there. The Petitioner, by contrast, has spent substantial periods in New Providence since the commencement of these proceedings. She alleges that in 2023, the Respondent tried to force her out of the matrimonial home by locking her out and taking all of the keys. That she became fearful for her life and had to have the Police had to assist her in retrieving clothes.

Lot 171

[18.] Lot 171 is held in the Respondent's name. The parties previously resided there. The Petitioner avers that the property was flooded during Hurricane Matthew and later rented out by Respondent's family and managed by the Petitioner. Conversely, the Respondent denies that the property was flooded but conceded when shown photographs introduced by the Petitioner that yard flooded as result of the Hurricane. This property also generates rental income. Its appraised value is $92,007.00.

[19.] Lot 14 was acquired during the marriage and is also held in the Respondent's name. The Respondent's evidence was that it was acquired with a view to procuring a business license and to commence a proposed fishing business. However, this idea was abandoned after the Petitioner consulted with relatives. It also comprises a dwelling house and is appraised at $107,774.00.

[20.] The combined appraised value of Lots 90, 171 and 14 is therefore $409,427.00; and equal division by value would represent $204,713.50 to each party.

Lot 89

[21.] The Petitioner contends that Lot 89, Block C, Section 2, Grand Bahama East should also be included in the matrimonial estate. She relies upon evidence that payments were made toward its purchase during the marriage. However, the Respondent denies ownership of the property and produced a Conveyance dated 15 April 2024 showing title is vested in his niece, LF [*de-identified*].

[22.] Whatever suspicions may arise from the circumstances surrounding that transaction, this Court must determine proprietary interests based upon the evidence. The recorded owner is a third party who is not before the Court. There is insufficient evidence upon which this Court could properly find, in these proceedings, that either spouse presently holds a legal or beneficial interest in Lot 89.

[23.] The Court therefore declines to include Lot 89 within the culmination and assessment of the matrimonial assets.

Vehicles

[24.] The Respondent owns four vehicles, namely a 2014 Ford Cargo Van, a 2004 Chevrolet Monte Carlo, a 2010 Chevrolet Silverado and a 2014 Chevrolet Impala. The Respondent also says that the Petitioner is the sole owner of a 2015 Chevrolet Malibu which was not disclosed.

[25.] The Petitioner, when asked in cross-examination whether she considered herself entitled to share in the Respondent's vehicles, the Petitioner answered in the negative. The Court, therefore, does not consider the vehicles to be assets requiring redistribution in this application.

The Golden Gates Property

[26.] The Respondent also alleges that between 2017 and 2023 the parties invested approximately $120,000 in constructing an extension to property belonging to the Petitioner's mother at Lot 378, Golden Gates Estates, New Providence. The extension was completed; however, the interior remains unfinished. This extension was purposed to be a joint investment between the parties and the Petitioner's mother in an effort to generate rental income.

[27.] The property is not owned by either party. Although the Respondent produced material showing the existence of the property and the structure, the evidence does not satisfactorily establish a proprietary interest of either party in the property or an enforceable interest having an ascertainable present value.

Liabilities

[28.] The Respondent also claimed that he has outstanding loans which the Petitioner states that she was unaware of as they be a recent development. The Respondent states that the loans were taken out in 2023 and the Petitioner was aware of the loans which assisted with construction costs on the properties. The Respondent produced a ledger to verify that he took out a loan with GBCCU in 2017 which was refinanced in 2023.

[29.] The Respondent gave evidence of outstanding loans and produced a ledger showing that a GBCCU loan originating in 2017 was refinanced in 2023. He says the borrowing was incurred during the marriage and applied toward construction and improvement of the properties. The Petitioner contends that she was unaware of certain borrowing and that the Respondents indebtedness may have arisen only recently.

Issues

[30.] The issues to be determined by the Court are:

- (i) what assets fall within the scope of matrimonial assets;
- (ii) what is the fair division of those assets having regard to Sections 25, 28 and 29 of the Matrimonial Causes Act ("the MCA");
- (iii) whether there is any good reason to depart from the equal sharing principle; and
- (iv) what, if any, financial provision should be made for the Petitioner.

Law and Discussion

[31.] The Court has the power to make property adjustment orders under Section 25 of the MCA:

> (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 —
>
> (a) any order under subsection (1)(a) of that section for a transfer of property;
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> (b) any order under subsection (1)(b) of that section for a settlement of property; and
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> (c) any order under subsection (1)(c) or (d) of that section for a variation of settlement.
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> (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**.
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> (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** —
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> (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 class of persons, specified in the order**.
>
> [Emphasis added]

[32.] The Court is enjoined by the provisions of Section 29 of the MCA ("Section 29 guidelines") which governs the exercise of that discretion and elucidates the guidelines that the Court must follow when making orders for redistribution of matrimonial assets post-divorce:

> (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 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 towards the other**….

[Emphasis added]

[33.] The Court may deem assets owned by either party in a marriage as matrimonial or family assets if the parties' intended to utilize those assets to benefit the family as per *Lord Denning MR* in **Wachtel v. Wachtel** (1973) 1 All ER 829 at p. 836:

…**It refers to those things which are acquired by one or other or both of the parties, with the intention that there should be continuing provision for them and their children during their joint lives and used for the benefit of the family as a whole**.

[Emphasis added]

[34.] It settled law the Court must do what is fair, just and reasonable in applying the Section 29 guidelines on an application for property adjustment. The Court adopts the dicta of *Crane Scott, JA* in the Court of Appeal case of ***Collie v Collie*** SCCivApp. No. 19 of 2015 at paras. [58] and [59] thereof:

58. It now appears from the decision of the English Court of Appeal in **Charman v. Charman** [2007] 1 FLR 1246 that **where a court elects to adopt the "*yardstick of equality of division*"** first identified in **White v. White** [2001] 1 AC 596 or the ***"equitable sharing principle"*** coined by *Lord Nicholls of Birkenhead* in **Miller v. Miller; McFarlane v. McFarlane** [2006] UKHL 24, **the equal sharing principle is not 8 restricted only to matrimonial assets, but applies to all the parties' property unless there is good reason to depart from those proportions.**

59. Delivering the Court's decision in **Charman**, *Sir Mark Potter P* explained the approach to the statutory exercise required by section 25(2)(a) of the English Act [corresponding to our section 29(1)(a)] in the following terms:

> [65] …. It is clear that the court's consideration of the sharing principle is no longer to be postponed until the end of the statutory exercise. We should add that, since we take **<u>'the sharing principle' to mean that property should be shared in equal proportions unless there is good reason to depart from such proportions, departure is not from the principle but takes place within the principle</u>**.
>
> [66] **<u>To what property does the sharing principle apply?</u>**... We consider…the answer to be that, subject to the exceptions identified in **Miller** to which we turn in para [83] - [86], below, **<u>the principle applies to all the parties' property but, to the extent that their property is non-matrimonial, there is likely to be better reason for departure from equality.</u>** It is clear that both in **White**, at 605 F-G and 989 respectively, and in **Miller**, at paras [24] and [26], *Lord Nicholls of Birkenhead* approached the matter in that way; and there was no express suggestion in **Miller**, even on the part of *Baroness Hale of Richmond*, that in **White** the House had set too widely the general application of what was then a yardstick.
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> [67] Even if, however, **<u>a court elects to adopt the sharing principle as its 'starting point', it is important to put that phrase in context</u>**. For it cannot strictly, be its starting point at all…. **<u>The inquiry is always in two stages, namely computation and distribution; logically the former precedes the latter.</u>** Although it may well be convenient for the court to consider some of the matters set out in s. 25(2)(a) …**<u>a court should first consider, with whatever degree of detail is apt to the case, the matters set out in s. 25(2)(a), namely the property, income (including earning capacity) and other financial resources which the parties have and are likely to have in the foreseeable future</u>**…."
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> [Emphasis added]

[35.] In **Yasmine Mechelle Johnson v Andrew Simeon Johnson** SCCivApp No. 20 of 2015, the Court of Appeal applied **Miller v McFarlane** and treated martial acquests, as assets produced by the parties' and common endeavour during marriage, as ordinarily subject to equal sharing in the absence of a good reason to depart therefrom. The decision provides persuasive guidance for the application of the MCA, *Dame Anita Allen P* at p.[3] stated:

> As I understand the dicta of *Lord Nicholls* at paragraphs 16 and 22 of **Miller (Appellant) v Miller (Respondent); McFarlane (Appellant) v McFarlane (Respondent)** [2006] UKHL 24, properties which are the financial product of the common endeavor of the parties, namely marital acquests, should on the break-up of a marriage whether the marriage was short or long, be shared equally, unless there is good reason to find otherwise. In other words, **<u>there should be parity in the sharing of the property unless there is good reason which dictates that the properties should not be shared equally</u>**.
>
> [Emphasis added]

[36.] The Court therefore finds that equality is the appropriate yardstick against which the proposed distribution must be tested, while remaining mindful that the ultimate statutory obligation is fairness after consideration of all the circumstances.

Application of Section 29 Guidelines

Income, earning capacity, property and other financial resources of the parties:

[37.] The Petitioner is a homemaker and prior to the marriage was employed as a pre-school teacher. The Respondent's evidence is that he encouraged the Petitioner to apply for jobs during the marriage but she refused to take advantage of the introductions which he facilitated. Further that she reluctantly assisted with the collection of income from the rental properties was applied towards the family's bills. The income garnered, which is approximately $500.00 when rented, is seasonal. The Petitioner's evidence is that she has no other means of income and is disadvantaged from finding meaningful employment due to a sciatic back pain which prevents her from standing for extended periods.

[38.] The Court does not accept the Petitioner's assertion that she is medically incapable of employment. No medical evidence was produced in support of her alleged back condition and her oral testimony did not establish total incapacity. Nevertheless, her lengthy absence from formal employment and the fact that she is now required to re-establish herself economically are matters which may affect her immediate earning prospects.

[39.] The Respondent is currently employed as the Night Manager in the painter blaster department with the shipyard and earns a monthly salary of $4,137.96. He is presently the stronger income position. However, his established visual impairment cannot be ignored when considering his future earning capacity. His present ability to work does not mean that the impairment is irrelevant. It bears upon the security and potential duration of his future employment.

Financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future:

[40.] The parties have no minor children, and their financial responsibilities are respective upkeep and living expenses. The Respondent does have the burdened of repaying the loans which were for the family's benefit.

Standard of living enjoyed by the family before the breakdown of the marriage

[41.] There are no minor children whose housing or maintenance must be given priority. Each party's principal needs therefore concern accommodation, ordinary living expenses and future financial independence.

[42.] The Court's task is not to guarantee either party financial abundance. It is, so far as the available resources permit, to distribute those resources fairly so that each may meet reasonable needs and move toward financial independence and place the parties in a position as if the marriage had not deteriorated.

Age of each party to the marriage and the duration of the marriage:

[43.] The Petitioner is 57 years of age and the Respondent is 52 years of age. Neither party is at the beginning of his or her working life. Although age alone does not establish incapacity for employment, the Respondent's age is material when considered together with his established visual impairment and, the security and potential duration of his future earning capacity. The Petitioner's position must likewise be viewed against her lengthy absence from the formal labour market during the marriage.

[44.] The marriage subsisted for approximately fourteen (14) years before its dissolution. This was not a brief union in which the parties' economic lives remained substantially separate. Over that period the parties organised their affairs on the basis that the Respondent principally earned income while the Petitioner principally maintained the home and assisted with the collection of income from the rental properties.

[45.] The case of **Miller v McFarlane (*supra*)** demonstrates that duration is relevant but does not operate as a mechanical formula. In the present case, the duration of the marriage, coupled with the character of the assets as matrimonial acquests reinforces rather than weakens the application of the sharing principle.

Physical or mental disability of either of the parties to the marriage

[46.] The Petitioner avers that she suffers from back pain. On cross-examination the Petitioner was confronted with evidence that she enjoys an active lifestyle, travelling and partaking in physical activities. The Petitioner conceded that her back pain is not constant but sporadic. The Respondent avers that he has an eye condition which has degenerated over the years and is visually impaired in his right eye.

[47.] The Court has already indicated that the Petitioner's alleged back condition was unsupported by medical evidence. The Court therefore attaches limited weight to it. The Respondent's visual impairment is established by medical evidence and the Court attaches weight to it under Section 29 guidelines. That factor does not justify awarding him a greater proportion of the matrimonial assets merely because he has a disability. It does, however, bear materially upon the manner in which an approximately equal division can most fairly be implemented.

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:

[48.] The Respondent was the principal breadwinner. His earnings provided the principal financial support for the household and contributed to the acquisition, construction and preservation of the parties' properties.

[49.] The Petitioner was principally the homemaker. She cooked, cleaned, maintained the home and yard, performed errands and assisted in managing the rental properties.

[50.] Counsel for the Petitioner submits that the Court ought to balance the contributions of the parties, homemaker vs. breadwinner (see **White v White** and **Miller v McFarlane**).

The value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution…. that party will lose the chance of acquiring:

[51.] Neither party addressed or led any evidence on this issue for the Court's consideration. The Court notes, however, that the Petitioner proposes that the Respondent conveys his interest in Lot 90 (matrimonial home and rental unit) to her. The Respondent proposes that the Petitioner moves out of matrimonial home and she receives Lot 171 and Lot 14.

[52.] While the Court does not attempt to place a monetary value upon maintaining a household or enabling the other spouse to concentrate upon paid employment. A matrimonial partnership may operate through a division of labour. Where each party contributes within the sphere undertaken by him or her, the Court should not discriminate between the person who earned the income and the person whose contribution was principally domestic (see **White v White** and **Miller v McFarlane**).

Financial Provision

[53.] The Court notes that the Petitioner also seeks an order that the Respondent pay her the sum of $2,500 per month until she is able to secure a job. The Respondent objects both procedurally and substantively.

[54.] The procedural objection must first be addressed. The Petitioner's Notice of Application for Ancillary Relief filed on 27 February 2025 sought settlement of matrimonial property. The pleadings before the Court does not establish that maintenance or periodical payments were included in the Petitioner's prayer for relief.

[55.] The Court must apply Section 29 guidelines to applications for financial provision orders under Section 25 of the MCA which states:

(1) **<u>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)</u>**

<u>under section 27 for the purpose of adjusting the financial position of the parties to a marriage</u> 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 —

(a) **<u>any order for periodical payments in favour of a party to a marriage under section 27(1)(a) or 31(6)(a)</u>** or in favour of a child of the family under section 27(1)(d), (2) or (4) or 31(6)(d);

(b) **<u>any order for secured periodical payments in favour of a party to a marriage under section 27(1)(b)</u>** or 31(6)(b) or in favour of a child of the family under section 27(1)(e), (2) or (4) or 31(6)(e); and

(c) **<u>any order for lump sum provision in favour of a party to a marriage under section 27(1)(c) or 31(6)(c)</u>** or in favour of a child of the family under section 27(1)(f), (2) or (4) or 31(6)(f);

and references in this Act to periodical payments orders, secured periodical payments orders, and orders for the payment of a lump sum are references to all or some of the financial provision orders requiring the sort of financial provision in question according as the context of each reference may require**.** [Emphasis added]

[56.] Counsel for the Respondent submits that the Petitioner is not entitled to an order for financial provision order. The evidence before the Court is that the Petitioner refused to work despite opportunities facilitated by the Respondent. Further the Petitioner has not provided any evidence of financial need or expenses for the award of $2,500.00 per month until she is capable of finding gainful employment.

[57.] The Court finds, based on the evidence that although the Respondent created opportunities for the Petitioner to establish a business outside the home she refused to do so.

[58.] The Court having considered the evidence, the submissions and authorities laid over by the parties finds Lot 90, Lot 171, and Lot 14 fall within the scope of matrimonial assets and are therefore subject to the Court's property adjustment powers. The Court finds that Lot 89 is owned by a third party and is not matrimonial asset.

[59.] The Court finds that when considering the length of the marriage prior to decree nisi in 2024 the parties had been married for some 14 years. Further that the matrimonial assets were acquired during marriage and used for the benefit of the parties. The Court also considered the value of the matrimonial assets and the potential use of the same by the parties.

Disposition

[60.] The Court, having considered the evidence of the parties and submissions advanced by Counsel hereby orders:

(i) The Petitioner shall transfer her right title and interest in Lot 90, Block C, Section, Grand Bahama East to the Respondent within 60 days of the date hereof;

(ii) The Respondent shall transfer his right title and interest in Lot 171, Block D, Section 2, Grand Bahama East and Lot 14, Block D, Section 2, Grand Bahama East to the Petitioner within 60 days of the date hereof;

(iii) The parties shall retain possession of the vehicles registered under their respective names;

(iv) The Respondent shall pay the Petitioner in respect of a financial provision, the sum of $1,000 per month for the period of 6 months commencing the 30 September 2026;

(v) In the event that either party fails or refuses to execute any conveyance or other document necessary to give effect to paras. 60 (i) or 60 (ii) of this Order within the time prescribed, a registrar of the Supreme Court is authorised to execute the necessary document on behalf of the defaulting party;

(vi) Until completion of the respective transfers, the party presently receiving rental income (if any) from a property shall account for that income and shall remain responsible for the ordinary outgoings attributable to that property, subject to any further order of the Court; and

(vii) Each party to bear their own costs.

Dated the 26th day of August 2026

[*Original signed and sealed*]

Constance Delancy
Justice