

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Family Division

2024/FAM/div/00016

BETWEEN

T. L. F.

Petitioner

AND

V. T. F. (nee M.)

Respondent

Before: The Honourable Justice C.V. Hope Strachan

Appearances: Cyril Ebong for the Petitioner

Kelly Bostwick-Toote for the Respondent

Hearing date: 19th February, 2025

Matrimonial Causes Act, alimony, property adjustment, equal sharing principle, whether to depart from equal sharing principle.

RULING

BACKGROUND FACTS

[1.] The Petitioner, TLF (“the husband”) and the Respondent, VTF (Nee M) (“the wife”) were married on 8th July, A.D. 2000. The Wife obtained a Decree Nisi on 10th October, 2024

after Twenty-three (23) years of marriage. The Decree was obtained on the grounds of the husbands' adultery. The couple had one (1) child TLF (F) born 7th November, 2003 and who is sui juris. The wife applied for Ancillary relief by way of a Notice to Proceed with Application for Ancillary Relief on 14th February, 2025. The Notice prayed as follows:

"That the Petitioner's Petition be dismissed and the said marriage be dissolved and that; a declaration pursuant to section 73 (1) (b) (i) of the Matrimonial Causes Act be made; Costs; an order for property adjustment; and any other order the court deems just."

The first and second listed prayer being a fait accompli the only issues left to be resolved are the property adjustment, costs and a declaration pursuant to the matrimonial Causes Act. s.73 (1) (b) (i).

[2.] In support of her Notice the wife filed an Affidavit of Means on 14th February, 2025 and the husband filed his Affidavit of Means on 18th February, 2025.

[3.] **THE WIFE'S AFFIDAVIT EVIDENCE**

(i) The pertinent parts of the wife's affidavit indicated that she is Fifty-five (55) years old. She is employed at the Blue Hill Golf Course as a Manageress and cook. She earns the sum of Four Hundred (\$400.00) per week from this employment. She sometimes earns overtime.

(ii) The wife speaks to owning a 2013 Ford Escape which is in both of the couple's names but believes that the vehicle will be roadworthy for only one more year and she had recently done repairs to the vehicle. Her monthly expenses for operation of the car is \$338.74 a month.

(iii) The wife provides a list of personal expenditure which includes groceries, utilities, medical, dental and optical expenses, life insurance, clothing items, hairdresser and family vacation expenses. These total Two Thousand and Fifty Dollars and Forty-two cents (\$2,050.42).

(iv) The wife puts emphasis on medical expenses, where she says that as a police officers' wife her co-pay for medical care was Twenty percent (20%) of the fee. Prescriptions were reduced by eighty percent (80%). She says that while she has signed up for National Health Insurance she has not yet utilized it and believes she will need to have annual checkups so she this will be a substantial increase to her expenses. She forecasts also regular visits to the dentist.

(v) The wife contends that there are Three (3) properties which should be considered matrimonial property upon which she expects the court to adjudicate upon. The matrimonial home which is situated No. 3 Tellie Court off Cowpen Road, an East Street Apartment and property situated at Miller's Heights opposite Wendy's.

(vi) About the matrimonial home the wife contends that she alone made the down payment for the property in the sum of Five Thousand Four Hundred Dollars (\$5,400.00) to Hannah Construction. After, she and the husband got a joint loan for Ninety-five Thousand Dollars (\$95,000.00) at CIBC East Bay Street. She exhibits a copy of the loan history to the Affidavit which attests to the fact that the loan is in both party's names and the specifics of the obligations of the parties. The mortgage was satisfied but the papers remain with the bank awaiting resolution of an issue with Inland Revenue and Real Property Tax.

(vii) The wife says the funds were used to build a three-bedroom home. That home was valued by Inland Revenue at One Hundred and Eighty-one Thousand Eight Hundred Dollars (\$181,800.00). She claims that the mortgage was paid through deductions made from the husband's salary and that she contributed to the mortgage payments in cash.

(viii) The wife also speaks to the husband owning a Two (2) bedroom apartment given to him by his grandfather from which the husband derives rent of Seven Hundred and fifty Dollars (\$750.00).

(ix) The wife's claim as it relates to the Millers Heights property opposite Wendy's: the wife simply says "The Petitioner resides in a fairly new looking home with his partner. I do not know the ownership or rent amount."

(x) The wife alleges that during the marriage she made sure there were groceries that the children had lunch and that gas was in the vehicles. In addition she prepared the children for school. The Respondent and I worked as a team. She says they owned "Club 30" and "The Huddle" where she worked as a chef. She says she gave the Petitioner money. She paid or contributed to the house insurance. Contributing to maintaining their daughter, she gave the husband money to transfer to their daughter's account. She gave (\$300.00 - \$500.00) every Two (2) weeks. She says the husband told her she was the best wife then but it seems now he wants a young person as his partner.

(xi) The wife spoke of Two (2) bars; "Club 30" and "The Huddle" that the couple owned earlier in the marriage which earned up to \$4,000.00 per night. His rent was One Thousand Six Hundred Dollars (\$1,600.00) per month. She said the husband earned this in addition to his salary from the Royal Bahamas Police Force (RBPF) and rents of Seven Hundred

and Fifty (\$750.00) rental income. Under Cross examination she admitted that these bars were closed since 2013.

(xii) The wife speaks of a tumultuous marriage where there were several periods of break up and make up. The premise is that the husband was always involved in one extra-marital affair or another. The wife tells of one period where the husband moved out of the matrimonial home for Two (2) years when the wife would pay the bills in the matrimonial home while the husband paid their daughter's school fees. There was even a previous Divorce Petition filed by the wife which she withdrew after making up with the husband. The wife complains that the husband agreed to pay her legal fees for that Petition when they made up but he never did. Juxtaposed to this evidence the wife offered in her affidavit that the husband was "quite responsible. He has paid the bills for our daughter.

(xiii) The wife says she wants a clean break. She contemplates residing in the matrimonial home with her adult daughter. She presupposes that the husband, as an Inspector on the RBPF is now with a Thirty-three (33) year old woman who is also employed with the RBPF and that as government workers they will be able to secure a mortgage, unlike her.

(xiv) The wife suggests that she will have to help their daughter on her return from overseas until she finds a job. She also contributes \$75.00 per week for her grandson's groceries. She also alleged that the husband has not kept his promise to her to pay her legal fees when they had reconciled.

(xv) At the suggestion that her adult son who is also employed by RBPF lives rent-free in the matrimonial home the wife denied this and averred that he resides in Rock Crusher Road.

[4.] THE HUSBAND'S AFFIDAVIT EVIDENCE

- (i) The husband says that he is employed with the Royal Bahamas Police Force (RBPF) with the rank of inspector and he earns a salary of Thirty-Four (\$3,400.00) per month.
- (ii) He particularizes his monthly expenditure inclusive of groceries, utilities, doctor visits, clothing, rent, insurances, credit card, loan, barber services and daughter's maintenance which together total Three Thousand Three Hundred and Seventeen Dollars (\$3,317.00) per month.

- (iii) The husband lists his assets as Two (2) vehicles a March which he drives and the Ford Escape which the wife drives. He includes the family home situated at No. 3 Tellie Court off Cowpen Road as an asset jointly owned by the wife and him.
- (iv) The husband says that the deposit for the purchase of the home in the sum of Five thousand dollars (\$5,000.00) came from his mother and her husband as a gift. The loan was obtained from CIBC for the balance of the purchase price.
- (v) The husband says the mortgage was paid by deductions from his RBPF salary. He admits to contributions of Five Hundred Dollars (\$500.00) towards the mortgage, for Two (2) years during re-cohabitation with the wife. The sum she contributed totaled Twelve Thousand Dollars (\$12,000.00).
- (vi) The husband is asking the court for the home to be sold and the proceeds of sale be divided between the parties as to 60% to him and 40% to the wife.
- (vii) The husband avers that the wife's adult son who is a policeman is living in the matrimonial home and that he should be paying rent.
- (viii) The husband says that the wife's request for alimony should not be granted because she is working and earns in excess of Four Hundred Dollars (\$400.00) or more per week which is almost twice the official minimum wage. He also says that the wife has no dependent children. Given that the mortgage payments and their daughters' educational costs and expenses were paid by him he has not been able to accumulate any savings for his retirement which comes up in a years' time. He says he cannot satisfy the wife's alimony requests.
- (ix) The husband denies being gifted with the East Street property but that he collects rent for his Ninety-One (91) year old grandfather.
- (x) The husband contends that the Millers Heights property is not owned by him. That he rents that property for Six Hundred Dollars (\$600.00) per month.
- (xi) The husband says that the reference made to the bar in the wife's affidavit could only relate to a bar he and a friend operated in 2013 which closed down.
- (xii) Under Cross Examination the husband denied owning a bar called "New Beginning" That the bar belongs to a friend of his. He insists that his interest is an investment of about \$10,000.00 which he intends to get back. So far received back Four Thousand Dollars (\$4,000.00). Husband says he does not receive any pay for doing the books for the New Beginnings Bar.

- (xiii) Husband says the wife only gave money to send to daughter on birthdays and special occasions.
- (xiv) His grandfather sometimes allowed him to keep the rent.
- (xv) Like the wife, the husband has made financial provision in the sum of \$200.00 per month in his affidavit of means for his adult daughter.

[5.] THE ISSUES:

- i. Whether the wife is entitled to alimony from the husband.
- ii. What properties comprise Matrimonial Properties?
- iii. What is the party's respective interests in the matrimonial property?

[6.] THE LAW;

Determining the issues of alimony and property adjustment are subject to the provisions in the Matrimonial Causes Act, Ch. 125 Statute Laws of The Commonwealth of The Bahamas (MCA)/ ("the Act") ss. 27, 28, 29, 30, 40 and 42.

DISCUSSION AND ANALYSIS

THE QUESTION OF ALIMONY FOR THE WIFE

[7.] Ancillary Relief proceedings and financial provision orders are governed by Sections 30 and 27 respectively of the MCA ("the Act").

Section 30 of the Act provides that:

"30. (1) Where a petition for divorce...has been presented, then, subject to subsection (2), proceedings for maintenance pending suit under section 26, for a financial provision order under section 27, or for property adjustment order may be begun, subject to and in accordance with rules of court, at any time after the presentation.

(2) Rules of court may provide, in such cases as may be prescribed by the rules-

(a) that applications for any such relief as is mentioned in subsection (1) shall be made in the petition or answer; and

(b) that applications for any such relief which are not so made, or are made until after the expiration of such period following the presentation of the petition or filing of the answer as may be so prescribed, shall be made only with the leave of the court;

Sections 39 and 42 of the Matrimonial Causes Rules which deal with applications for alimony provide:

39. The wife petitioner who has not included in her petition a prayer for alimony pending suit may apply for alimony pending suit at any time after filing the petition, and a respondent wife may apply for alimony pending suit at any time after entering appearance to a petition.

42. An application for permanent alimony may be made within a reasonable time after a decree for judicial separation or for restitution of conjugal rights, as the case may be, has been pronounced.

[8.] Section 27 of the Act provides that:

27. (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 either party to the marriage shall make to the other such periodical payments, for such term, as may be specified in the order;

(b) an order that either party to the marriage shall secure to the other to the satisfaction of the court such periodical payments, for such term, as may be so specified;

(c) -;

(d) -;

(e) -

(f) -

[9.] Reviewing the Notice upon which this application is based there was no prayer for alimony or in fact for the wife to receive periodical payments. The word alimony was never mentioned by the wife in her affidavit or while giving viva voce evidence. The only time that the word alimony was mentioned was in counsel closing submissions. I adopt as applicable to this situation a statement made by *Evans J* in **DK v. AK** [2008] 1 BHS J. No. 28;

“I agree with counsel for the respondent that on the law and authorities the petitioner not having applied for alimony/maintenance in her petition and not having included such a claim in her Notice of Intention to proceed with her application for ancillary relief, cannot invoke the court's power by an averment in her affidavit. The petitioner's claim for alimony/maintenance is thereby denied.”

[10.] PROPERTY ADJUSTMENT

S. 28. (1) of the Act provides 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)-
- (c) -
- (d) -

[11.] Under the Financial provision and property adjustment powers given under ss. 25, 27, and 28 the court has a discretion to determine the issue whether the wife is entitled to alimony or periodical payments from the husband and also to determine the respective interests of the parties in the matrimonial home and other properties which are mentioned in the affidavits filed. S. 29 MCA provides the formula or guidelines for determining property adjustment. *Justice Allen* as she then was confirmed this in the case of **Jupp v. Jupp** supra, where she stated;

“Section 29 is very clear as to what a judge must take into consideration when considering whether to exercise her 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 of the case and make an award accordingly, stating sufficient reasons for the same.”

[12.] That sharing principal referred to by *Justice Allen* was enunciated in the case of **A v. B** [2010] 2 BHS J No. 18 by *Barnett C.J.*

“The objective of the court is to be fair.

In my judgment, the modern day approach to a division of property in a marriage is that fairness is, an equal sharing of property unless there is a compelling reason to depart from that equality. The law is perhaps best summarized in the judgment of the English Court of Appeal in **Charman v Charman** [2007] 1 FLR 1246.” “The yardstick of equality of division”, first identified by Lord Nicholls in *White* at p. 605G, filled the vacuum which resulted from the abandonment in that decision of the criterion of “reasonable requirements”. The origins of the yardstick lay in s.25 (2) of the Act, specifically in s.25 (2) (f), which refers to the parties’ contributions: see the preceding argument of Lord Nicholls at p. 605D-E. The yardstick reflected a modern, non-discriminatory conclusion that the proper evaluation under s.25 (2) (f) of the parties’ different contributions to the welfare of the family should generally lead to an equal division of their property unless there was good reason for the division to be unequal. It also tallied with the overarching objective: a fair result.....

[13.] *Barnett*, CJ was echoing dicta derived from such House of Lords cases as **White v White** [2001] 1 AC 596 and **Miller v Miller, McFarlane v McFarlane** [2006] 1 UKHL 24; and the long line of cases that preceded them. See also **LKW v DD** (2010) 13 HKCFAR 537, a decision out of Hong Kong’s Court of Final Appeal, which approved the approach taken by the court in **Miller v Miller** (supra). It should be noted here that our local S. 29 MCA mirrors the English MCA S. 25.

[14.] In the Court of Appeal’s decision of **Robson v Robson** [2010] EWCA Civ. 1171, *Ward LJ* said:

“Like every exercise of judicial discretion, the objective must be to reach a just result and justice is attained when the result is fair as between the parties.

Need, compensation and sharing will always inform and will usually guide the search for fairness.”

[15.] The search therefore must always be for fairness. Given the views of the husband and wife about their respective interest in the matrimonial properties fairness has to be determined against the backdrop of their particular circumstances.

[16.] The facts in the affidavits or lack thereof prompts me to deal with the disposition of the Two (2) properties mentioned by the wife, East Street and Millers Height. The wife offered little more than a cursory mention of these properties, certainly she has given no evidence of a legal title or in fact, evidence whereby an interest in either of them can be attributed to her or even the husband. If as she contends the East Street property was gifted to the husband by his grandfather

the lack of any explanation about how this property comes into play as a matrimonial asset escapes me. In any event it is established that:

“Property acquired during the marriage by one of the parties is usually considered matrimonial property. Lord Nicholls of Birkenhead in *Miller v Miller; McFarlane v McFarlane* stated -- “Matrimonial property means the matrimonial home plus property acquired during the marriage otherwise than by gift or inheritance.” Per Bain J in *HG v. LG [2016] 2 BHS J. No. 102 per Bain J [Emphasis added]*

[17.] In any event the husband has offered a reasonable explanation as to his dealings with the East Street property, collecting the rents for his Ninety One (91) year old grandfather. Equally devoid of any information of probative value is the wife’s allegation that the husband owns the apartment in which he resides in Miller’s Height. The husband denies owning the same indicating that he rents this building for \$600.00 per month. Without any cogent evidence by the wife as to the legal ownership of this property and details of her claim to the said property I dismiss her allusion to owning an interest in the same.

[18.] I am of the view that the home situated No 3. Tellie Court off Cowpen Road is the only asset for this courts consideration and determination. Both of the parties focused on their respective contributions to the family as pivotal to determining their interest in this property. Notwithstanding that this is regarded by them as the motivating factor, this court nevertheless has to have regard to other considerations provided in s.29 as set out hereunder:-

- S 29 (1)-
- (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.

[19.] It is my view that the husband was always a superior earner to the wife. However the wife, to her credit acknowledged that he used his earnings to take care of the family when she said that the husband "has been quite responsible. He has paid the bills for our daughter. However she made no bones about her contributions to groceries, the children's lunch, gas for the couples' vehicles, and preparing the children for school. She contributed or paid the house insurance. She stated that she and the husband worked as a team when they owned the Club Thirty and The Huddle. She worked as a chef at the clubs and according to her "Throughout the marriage the Petitioner handled most of the finances and I was happy to hand him moneys and to take a minimum salary to assist in our affairs." She said that the husband told her at one time that she was "the best wife." The husband did not deny this. I am therefore of the view that the money earned from the clubs which included the wife's salary was what was used by the husband to take care of the family's financial obligations and maintenance for their daughter at this juncture in the marriage.

[20.] The husband earned more throughout the 24 years of their marriage. Although the possibility exists for the wife's earnings to surpass the husbands' history does not auger well for that expectation. The wife at age 55 ostensibly has a few years to go before retirement. The husband is one year out from official retirement. Neither party discussed in any detail pension possibilities. The wife did not mention whether she had any savings. The husband said he had no savings. However, according to him he invested \$10,000.00 in a friend's business which he expects to be paid back. It stands to reason that he had savings or at least easy access to this considerable sum of money. The future earning capacity for the husband initially looks brighter than the wife's but so much depends on his role in the friend's business and its success. Any conclusions reached about this would be purely speculative.

[21.] It was during cross examination of the husband by the wife's counsel that evidence of the husbands' interest in a Bar called "New Beginnings" came to light. The fact that the husband failed to disclose any information about this business to the court is suspicious. I suspect that the return of the \$10,000.00 investment to the husband is the very least that he will receive and/or expects to receive from that business in the future. To that end I find that the financial resources which he has or is likely to have in the foreseeable future extends beyond the realms of possibility for the wife unless her circumstances change drastically.

[22.] The wife has focused on her needs for medical checkups and dental checkup. I note that she has not attested to any catastrophic illness or condition that would require more than offered by National Health for which she has already applied. The husband has not expressed any need in that direction other than to say that upon retirement in a year's time and his lack of savings. Based on the husband's monthly expenditure there are not many luxuries and the only items which he might be able to control on a monthly basis are his credit card, his adult daughter's maintenance and the amount allotted for vacation. The total is \$510.00. The wife lists family vacation abroad

which is a cost of \$250.00 that can be controlled. I also take note that the medical and dental bills, the passport and visa renewal are probably not permanent costs. In my view there is no real difference in the financial needs and obligations of the parties to sufficiently influence a decision to favour one party over the other in distribution.

[23.] The evidence of the husband and wife suggests a modest but progressive standard of living: a striving working class family who made efforts to better their condition through entrepreneurial pursuits. Unfortunately things deteriorated for various reasons, significantly the husband's adulterous affairs which destroyed the marriage. The wife has reiterated in that she wants a clean break. I am of the view that the standard of living they both enjoyed during the marriage can be maintained given that their daughter is an accomplished adult with a Degree in science so there are no young children either of them are obligated to maintain. The mortgage of the home has been satisfied so the entire value of the home, \$181,800.00, and is available for distribution between them. They both have vehicles albeit of varying ages. I dismiss as pure speculation any attribution of provision of finances to the husband to his live-in paramour. Both parties living within their means are capable of maintaining the standard of living to which they have become accustomed.

[24.] The wife raised the issue of their respective ages to emphasize that at the age of 55 she will not be able to obtain a mortgage. While the husband did not mention anything about their respective ages his assertion that he is about to retire in a year and has no savings leads me to believe, taking judicial notice, that he has to be approaching the age of 60 which is the official retirement age at the RBPF. I envisage that the husband is in no better position to obtain a mortgage than the wife again disregarding the wife's reference to the husband's live in paramour.

[25.] Neither party has any physical or mental disabilities.

[26.] The main contention between the parties relate to their respective contributions made by each of them to the welfare of the family, including any contribution made by looking after the home or caring for the family. To this end, I accept that the husband's monetary contributions to the bank payments, for the mortgage was greater than the wife's. The wife did not deny this although she made a great effort to amplify the contributions she did make. The evidence suggests that the husband not only paid the mortgage but also the utilities (except for Two (2) years when the husband left the home) and the expenses related to their daughter's education. The wife avers that she paid all of the other miscellaneous household expenses. I accept that this was in fact the arrangements under which the couple handled their resources at the time.

[27.] I also accept the husband's calculations that the wife contributed \$12,000.00 to the mortgage. The wife did not challenge this. The mortgage was \$95,000.00 which means that the husband paid at least \$73,000.00 of the total mortgage. The mortgage is satisfied. The ratio of that payment between the husband and wife is Eighty-three (83%), the husband) to Sixteen (16%) the

wife. Notwithstanding his obvious superior contributions he offers the wife a 40% interest in the matrimonial home. The court is not going to ignore plain facts.

[28.] The wife did not raise the issue of a loss of pension as a part of her case. In any event any pension the husband might benefit from is likely to be based on his salary now and will probably be only sufficient to support his day to day existence. The court is mandated by s. 29 (1) (g) also to exercise the powers under s. 27 and 28 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. Neither party failed to discharge their obligations towards the other party during the marriage, except the husband failed to pay the wife's legal fees when they decided to reconcile after she filed the first petition for divorce. The wife's unsolicited disclosure that the husband has been quite responsible is worth repeating in this regard. The husband's offer acknowledging the wife's contribution although not to the extent of 50% also demonstrates that he believes that the wife discharged her financial obligation to him and the family. I find that the divorce does not negatively impact either of them so as to influence the decision one way or the other.

CONCLUSION

[29.] The wife has succeeded in painting the picture of the formative years of the couple's financial arrangements and how they handled the family obligations. It is uncontroverted that the wife during the formative years of the marriage, worked hand in hand with the husband at the family businesses "Club 30" and "The Huddle" sometimes contributing back her salary. I got the impression that the financial responsibilities were assumed by the husband because he controlled the income from those enterprises, and he controlled whatever the wife earned from her job as a chef at those businesses. This probably enabled him to pay the mortgage and maintain the family but only for 4 years between 2009 and 2013. However after Club 30 and The Huddle closed in 2013 the husband continued to pay the mortgage solely from his salary for Ten (10) years in addition to schooling their daughter up to university level. The mortgage was not satisfied until 2023. The wife commended his diligence.

[30] Having regard then to all the factual circumstances, respective counsel's submissions and the law I am satisfied that the husband's contributions to the welfare of the family were considerably more than the wife's. Consequently, I find that this is an appropriate case to depart from equality. I am satisfied that the husband's offer of a Sixty Percent (60%) interest for himself and a Forty percent (40%) interest for the wife in the matrimonial home, situate No. 3, Tellie Court off Cow Pen Road, is particularly generous, just and fair. The only remaining issue is the disposition of the property;

[32]30.] S. 40. (1) The court, on granting a decree of divorce, if it is satisfied that both parties to the marriage have made a substantial contribution to the matrimonial home (whether in the form of money payments, or services, or prudent management, or otherwise howsoever), may, if it thinks fit on the application of either party made before the decree of divorce is made, make in lieu of any order under section 25(3) affecting the matrimonial home an order —

(a) subject to subsection (2) directing the sale of the home (including the land on which it is situated and such other land appurtenant thereto as the court directs) and the division of the proceeds, after the payment of the expenses of the sale, between the parties in such proportions as the court thinks fit; or

(b) directing that either party pay to the other such sum, either in one sum or in instalments and either forthwith or at a future date and either with or without security, as the court thinks fair and reasonable in return for the contributions made by that other party.

[31] **DISPOSITION**

- [1] The application for alimony and/or periodical payments for the wife is dismissed.
- [2] The interest of the husband and wife in the matrimonial home situate No. 3 Tellie Court off Cow Pen Road is equally divided as to Forty percent (40%) to the wife and Sixty percent (60%) to the husband.
- [3] The wife shall purchase the husbands Sixty percent (60%) interest in the said matrimonial home within Ninety (90) days of the date hereof whereupon the husband shall transfer all his right, title and interest to the wife.
- [4] Should the wife fail to purchase the husband's interest in the said matrimonial home within Ninety (90) days of the date hereof the husband is at liberty to purchase the wife's interest in the said home whereupon the wife shall transfer all her right title and interest to the husband.
- [5] Should neither party purchase the others interest within the period of One Hundred and Eighty (180) days then in that event the said house matrimonial home is to be sold and the net proceeds thereof be divided between the husband Sixty percent (60%) and the wife Forty Percent (40%) basis.
- [6] In the event that either or both parties fail or refuse to execute the necessary documents of transfer then the Registrar of the Supreme Court is at liberty to execute those documents.
- [7] A Declaration is granted pursuant to s. 73 (1) (a) of the Act.

[8] Each party shall bear their own costs.

Dated the 25th day of March, A.D., 2025

A handwritten signature in blue ink, consisting of stylized initials and a long horizontal stroke, positioned above a solid black horizontal line.

**The Honorable Madam Justice C.V. Hope Strachan
Justice of the Supreme Court of the Commonwealth of The Bahamas**