

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

ANTIGUA AND BARBUDA

CLAIM NO. ANUHCV2020/379

BETWEEN:

ANGELA L. G DICKINSON

Claimant

and

AIDAN McCauley

Defendant

Appearances:

Mr. Andrew O’Kola for the Claimant

Ms. E. Ann Henry K.C. with Ms. Mandy Thomas for the Defendant

2023: February 7th
April 27th
June 16th

JUDGMENT

[1] **Byer, J.:** By Fixed date claim form filed on the 23rd October 2020, the claimant sought the following relief from the defendant, her then husband:

- (1) That it be adjudged and declared that the Claimant is a beneficial owner of the former matrimonial property Mollihawk House, situated at Hospital Hill, English Harbour St. Paul Antigua more particularly described as Registration Section: English Harbur; Block: 35 2480D; Parcel: 58 and 38.
- (2) The former matrimonial property situated at Hospital Hill, English Harbour, St. Paul’s Antigua, which is in the name of the Defendant shall be transferred into the name of the Claimant. The Defendant is to execute an instrument of Transfer in favor of the

Claimant. Should the Defendant fail to execute the said instrument of Transfer, the Registrar of the High Court is directed to sign the said instrument of Transfer for and on behalf of the Defendant.

- (3) That the Defendant who currently resides in the property, do vacate the property by Order of the Court within one month of the Order being served on him.
- (4) In the alternative, the Defendant is to pay to the Claimant the total value of the said property or Five Million Dollars United States Currency (\$5,000,000.00) whichever is greater; by Order of the Court within one month of the Order being served on him.
- (5) That the Defendant pay to the Claimant the total of Five Million Dollars United States Currency (\$5,000,000.00) in full and final satisfaction of the family's assets.
- (6) Such further or other relief as the Court may see just and meet.

[2] In order to understand the circumstances that have led to this claim the background factual matrix needs to be understood.

Background Facts

[3] The parties met in 2007 and started a relationship. A child was born to them in 2008.

[4] Initially, the Claimant lived in English Harbour in Saint Paul, and the Defendant lived in Valley Church in Saint Mary.

[5] In 2008, during the Claimant's pregnancy the Claimant and the Defendant occupied two adjacent villas in Jolly Harbour belonging to the Defendant. The Claimant lived in one of the villas and the Defendant lived in the other.

[6] The relationship was turbulent.

[7] The Defendant purchased the Grey House in 2009. The parties both lived at the Grey House until early 2012.

[8] The parties got married in April, 2013.

- [9] They both intended to move to England together to live and it was intended that the Defendant would purchase a house in England which would be the matrimonial home.
- [10] However, before the date of moving, the Claimant's intentions changed and the Claimant refused to go to England with the Defendant. She remained in Antigua with the child and only visited England on one occasion.
- [11] The Defendant, moved to England in September, 2013 and acquired a property, known as Orchard House in which he resided while he lived England.
- [12] While the Defendant lived in England, the Claimant lived in rented accommodation in English Harbour in Antigua.
- [13] On one occasion only, during September, 2013, the Claimant visited the Defendant in England with their son.
- [14] However, the Defendant frequently returned to Antigua in August, 2014.
- [15] While on one of the several visits to Antigua, in February, 2014, the Defendant had become aware that the property known as Mollihawk House was available for sale. He had always liked the property and decided to purchase it.
- [16] The Defendant had no discussion with the Claimant concerning the acquisition, nor was she involved in the purchase in any manner whatsoever. Mollihawk House was purchased by the Defendant who is the sole registered proprietor of the property.
- [17] The renovations were undertaken by the Defendant alone. During renovations of Mollihawk House (the main house), the parties resided on the property in a cottage next to the main house.
- [18] The parties moved into Mollihawks House in December 2016 and both parties resided at Mollihawk House until the Claimant moved out in 2018.
- [19] The parties have never lived together since.
- [20] In considering these back ground facts and the evidence that was led at the trial of this matter, that this court considers that the following issues are to be determined by the court:

- (1) Is the claimant entitled to a beneficial interest in the property called Mollihawk?
- (2) Is the agreement dated the 14th December 2016 binding as between the parties?
- (3) Is the claimant entitled to any interest in any other asset as claimed?

[21] In considering these issues this court has had the full benefit of the evidence led and the submissions filed by the parties herein and this court considers that where there was any inconsistency in the evidence as to the stated version of events as given by the parties, that the court on a balance of probabilities, prefers and relies on the version as given by the defendant.

Issue #1- *Is the claimant entitled to a beneficial interest in the property called Mollihawk.*

[22] The basis of this claim by the claimant is contained in her witness statement filed on the 11th March 2022 ¹ and her claim that commenced this claim. The contention of the claimant is that having met the defendant in 2007, they had a child in 2008 and thereafter until the final separation in 2018 lived as man and wife with the ultimate act of marriage in 2013.

[23] It is the claimant's contention that despite periods of unhappy differences between the parties that from the birth of their son, all the actions taken by the defendant who was more financially stable than she was, was with a view to providing for the parties and their son as a family, including the purchase of the house in dispute, Mollihawk.

[24] The claimant maintains that she is entitled to a share in Mollihawk on the basis that not only did she invest sums of money into the renovation of the house, although admittedly not its acquisition, she however does contend that it was the clear intention of the defendant at the time of acquisition that the same would be the home for them to live as a family and that in fact they did do so, if even for a short period of time.

¹ Pages 76-83 of the Core Bundle lodged on the 4th January 2023

[25] The defendant on the other hand, although admitting that there were periods that the claimant and he lived together, it was never as husband and wife. There was never at any time, and certainly before the purchase of Mollihawk that the parties pooled their resources, conducted their affairs as a unit or discussed the acquisition of any property to be used as a matrimonial home save and except the property in the United Kingdom which was acquired when the claimant and defendant had planned to relocate there after their marriage in 2013. That relocation on the part of the claimant never took place and the property in the United Kingdom was never used as the matrimonial home with the defendant residing there exclusively on his own save the three short visits from the claimant with their son in 2013, 2014 and 2015 (after his return to Antigua).

[26] Additionally and in any event, the defendant maintains that the claimant did not support his purchase of Mollihawk, that she was not involved in the process to obtain it, and relied on her own admissions at trial that she in fact was not even aware as to how the financing came about to acquire it or renovate it . Indeed, the only admission made by the defendant was that any sums that the claimant may have provided during the renovations of Mollihawk, were in fact loans to the defendant which were repaid in full and as such do not and could not give rise to an interest having been created in favour of the claimant.

Court's analysis and consideration

[27] In this court's mind the starting point for this issue must be as set out in the case of **Anne Abbott v Dane Norman Lawrence Abbott** ², where the court made it clear that there are two questions which must be addressed, "first was it intended that the parties should share the beneficial interest in a property conveyed to one of them and second if it was so intended in what proportions was it intended that they share the beneficial interest?" As this is understood, as it was succinctly elucidated in the case of **Lloyds**

² [2007] UKPC 53 at paragraph 4 per Baroness Hale of Richmond

Bank plc v Rosset ³ that in order to answer these questions, the “search is to ascertain the parties shared intentions, actual, inferred or imputed[must be] with respect to the property in the light of their whole course of conduct in relation to it.”

[28] In that regard this court must therefore consider the history of the acquisition of this property. When this court considers the financial history of the parties, it was apparent that the defendant was always the party who was in a stronger financial position than the claimant although she was herself financially independent during the majority of the currency of the relationship. In 2007 when the parties met, it was clear that the claimant had been a businesswoman of some stability. However what is clear in this court’s mind is that as soon as she became pregnant with the child of the family, the defendant assumed the financial responsibility for her and the child, even when their relationship was at its most tumultuous.

[29] Bearing that in mind, this court accepts unswervingly that the defendant acquired, maintained and disposed of properties over the currency of their relationship, and certainly up until they got married in 2013 without input from or reference to the claimant.

[30] This court in fact accepts that when the nature of the relationship of the parties is examined up until the acquisition of Mollihawk which will be dealt with separately as it is the nub of the claim of the claimant, that these parties lived their lives primarily separate even when they cohabited in premises at the same time. The claimant did not produce any evidence to satisfy this court that the mere living in the house together meant that the parties lived as man and wife. She produced no evidence as to the nature of the relationship or the manner in which they related to each other up until the marriage in 2013. Indeed the only thing that was clear was the reasoning preferred for her non-migration to the United Kingdom and original intention attached to the acquisition of the home there, Orchard House.

[31] Indeed, this court accepts that the discussion surrounding the acquisition of this property was the first indication as between the parties that the same was to be acquired for the

³ [1991] 1 AC 107 at paragraph 60

joint benefit of the parties during a period when the parties had agreed to enter marriage.

- [32] Therefore the only reason that the Orchard House features in the determination of this issue is whether upon its disposition, that money that was used to invest in Mollihawk would have given the claimant a share in Mollihawk simpliciter.
- [33] However, this court finds that this cannot be the position without more. The claimant has purported to rely on what has been referred to as an anti- nuptial agreement that was entered into by the parties before marriage setting out the claimant's share and entitlement to the Orchard House. This document was sadly never disclosed or produced by the claimant before the court, who bears the onus of the burden of proof. In any event, by the claimant's own admission, subsequent to this purported arrangement, the claimant categorially refused to migrate to the United Kingdom and thus this property, whatever its intention upon acquisition never in fact manifested as the matrimonial home. The claimant never resided there and the period of just under two years that the defendant lived there, this court accepts that the claimant visited a total of three times amounting to no more than ten weeks in total. Indeed it was clear to the court from the email correspondence that was exchanged between the parties and in particular from the claimant⁴ in August 2013 addressed to the defendant, that she intended to "pretend to be together" and that she did not "care to be with [him] or around [him] or speak to [him]" and in in 2014⁵ clearly stated that "[they] are separated".
- [34] In this court's mind, it is therefore without question that by 2014, despite the initial intention that Orchard House would have served as the matrimonial home that the factual reality was that these parties were no longer a unit and that the property never served as the matrimonial home or shared home. In this court's mind, the intention cannot be sufficient if the reality was contrary to that intention. Indeed, in the case of **Oxley v Hiscock**⁶ the court examined the case law in relation to the pre requisite for a claimant seeking to enforce an implied trust as between the parties. The court made it clear that there needed to have been some act taken by the person who claims the

⁴ Page 34 of CoreTrial Bundle of Documents

⁵ Page 36 of Core Trial Bundle of Documents

⁶ [2004] FLR 669

existence of the common intention.⁷ Some act taken because of that common intention, whether it was moving in and giving up prior residence, or assuming payments towards the mortgage as a shared home or even assuming payments of outgoings of the family while in the property.

[35] In the case at bar, in this court's mind the claimant established no connection to the Orchard House. She was unable to establish on a balance of probabilities that in fact any such intention remained intact between the parties after her decision to remove herself from the relationship. The claimant has not preferred one authority to support the contention that once the intention was expressed that the same exists for all time regardless of the change of circumstances and thus in this court's mind, when Orchard House was sold by the defendant, the claimant had no interest in those funds and its investment in Mollihawk did not create any interest in her favour.

[36] Therefore, the question must now be, did the claimant by other acts obtain an interest in Mollihawk.

[37] In that regard the claimant also submitted that even if she could not rely on having an interest in the funds obtained on the sale of the Orchard House, she had still established an interest by way of either the operation of a resulting trust or by way of a constructive trust.

[38] The definition of "resulting trust" has been given as "arising as a result of a direct contribution to the purchase price of a property."⁸ Therefore the contention of the claimant in this regard is that she provided cash to the defendant on two occasions outside of the sums that were invested from the sale of Orchard House.

[39] In the submissions of the claimant the sums claimed that were advanced to the defendant were \$690,000.00 XCD to assist in obtaining the mortgage and \$300,000.00 XCD towards the renovations. However when the court examines the evidence of the claimant⁹ the claimant makes reference to the sole sum of \$450,000.00 which "was contributed through my personal finances to... aid the renovations of Mollihawk"¹⁰. On cross examination, the claimant however admitted lending the defendant two sums of

⁷ **Grant v Edwards** [1986] Ch 638 ; **Jones v Kernott** [2011] UKSC 53

⁸ Rayden & Jackson on Relationship Breakdown, Finances and children Chapter 21.104

⁹ Witness statement of the claimant filed 11th March 2022

¹⁰ Paragraph 12 Ibid

money, one in the region of \$300,000.00 and \$650,000.00. She also admitted that both of those sums were repaid in full by the defendant and in fact after initially denying its existence, accepted that there was a loan agreement that had been entered into by the parties on 2017¹¹ for the loan of \$650,000.00.

[40] It is therefore clear in this court's mind that the mere fact that the defendant repaid the claimant the sums loaned did not amount to a financial contribution to the acquisition or the renovations of the property. The money did not remain as an investment and rather in this court's mind was a clear indication on the part of the defendant that the claimant was not to receive any interest in the property at all by way of direct contributions.

[41] Therefore the court must consider whether in relation to Mollihawk, there can be implied the existence of a constructive trust in favour of the claimant. As with the analysis in relation to Orchard House the same two questions must be addressed as to Molliahawk. Did the parties have a common intention that they would share a beneficial interest in the property and if they did what was the proportion of that interest.

[42] The starting point for this consideration therefore has to be the time when the defendant had made it known that he was interested in the purchase of Mollihawk. The claimant stated in her examination in chief¹² that she and the defendant visited the property prior to purchase as a couple with a view to having the property as a family home and that she was the one who introduced the defendant to the sellers and was therefore intimately involved in the discussions surrounding the acquisition of the property as a family home. However, it was of some interest to the court that when the claimant was pressed on cross examination as to her involvement in the process of acquiring Mollihawk, she indicated the following:

- (1) that the relationship was off and on and in fact admitted that she had indicated to the defendant prior to his acquisition of Mollihawk that the relationship was not working¹³

¹¹ Page 96 of the Core Trian bundle of documents

¹² Paragraph 10 of the Witness statement of the Claimant filed 11th March 2022

¹³ Email correspondence dated 5th April 2014 at page 40 of the Core Trial Bundle of Documents

- (2) She denied that there was no agreement to buy the property together but had no response to the email dated 7th April 2014¹⁴ from the defendant in response to her email that the relationship was over. In that email it was clear that the defendant intended to buy Mollihawk without the claimant
- (3) that she was not part of the agreement for sale¹⁵ and in fact admitted that she did not even know when it was signed
- (4) that she did not know when the sale was completed but denied that the defendant had told her in February 2015¹⁶ that he was buying the house for himself as a “place for me”

[43] In this court’s mind, this conduct by the parties at the time of the acquisition of the property clearly showed that the defendant operated in the absence of any common intention as between the parties. This is not to say that prior to its acquisition that the parties may have had some preliminary discussions as to reconciliation and that during that period initial overtures may have been made by the claimant seeking information as to properties for sale for the use of the defendant¹⁷ in March 2014. However it is also clear that less than a month later the parties had once again gone their separate ways as was the unfortunate tenor of this tumultuous relationship and that the defendant moved ahead with purchase with no input or reference from the claimant.

[44] However the common intention of the parties cannot only be measured as at the time of acquisition (although the conduct of the parties at that time is certainly a factor that must weigh heavily in the scales to make that determination) but the court must also consider the entirety of the conduct of the parties surrounding the property and its acquisition.

[45] Therefore, this court must also consider how the parties behaved after the property was in fact acquired. The claimant made bald statements as to her contribution to the renovations that were undertaken at the property but she was unable to provide any documentary evidence as to this payment in either a lump sum or in part payments

¹⁴ Page 41 of the Core Trial Bundle of Documents

¹⁵ Page 43 of the Core Trial Bundle of Documents

¹⁶ Email dated the 20th February 2015 at page 42 of the Core Trial Bundle of Documents

¹⁷ Email dated March 17 2014 at page 39 of the Core Trial Bundle of Documents

from any account that she held and this court accepts on a balance of probabilities that this sum was never paid by the claimant. What the court does accept, as evidenced by the evidence of the defendant himself is that there were perhaps times when the claimant, during reconciliations may have made payments to the wages of the workers. Again these periods could not be factually identified, nor did the amounts that were paid quantify. What this court therefore accepts is that this couple, had a roller coaster type of relationship and that when things were good they were very very good and there was cooperation and when things were bad they were horrid.

[46] In fact they were so horrid at times that this court accepts that the claimant was by and large kept out of the financial and proprietary obligations surrounding Mollihawk which then gave rise to the defendant's mistrust of the claimant and the correspondence that flowed between them in October 2016.

[47] Prior to October 2016 the defendant admits and agrees that he and the claimant, despite the constant animosity between the parties, attempted to make things work to some extent. However by the time that renovations were completed in late 2016, the defendant made it clear¹⁸ by email dated the 13th October 2016 that he had no intention to allow the claimant to move into Mollihawk. He stated *"I have no intention of letting you move into the house. It is my home. You are just planning on driving me out. That is what will happen as we cannot stand each other. And then you will stay there and try and steal it from me."*

[48] In this court's mind, there could not have been any clearer indication by the defendant as to how he viewed the claimant's relationship to Mollihawk. In response¹⁹ this court acknowledges that the claimant in making her commitment to again make the relationship work, agreed to *"sign something that we wouldn't be taking the house."*

[49] It is from this statement that the Agreement of 14th December 2016 transpired and is central to the defendant's defence to the claim of the claimant and will therefore be dealt with later in this judgment. Suffice it to say, this court is satisfied on a balance of probabilities from the evidence presented that the parties never had an express discussion about occupying or dealing with Mollihawk as the family home. On the

¹⁸ Page 88 of the Core Trial Bundle of Documents

¹⁹ Email dated the 13th October 2016 at page 88 of the Core Trial Bundle of Documents

contrary the defendant made it abundantly clear that the property was being purchased as his home. Further it was clear that the parties never managed their affairs jointly or pooled resources for the running of Mollihawk house, indeed this court accepts that after the claimant took up residence at the home she added personal touches that were tokens of the relationship and the familial ties as they shared a son but it has to be accepted that “ *the wife does not get a share in the house simply because she cleans the walls or works in the garden or helps her husband with the painting and decorating. Those are the sort of things which a wife does for the benefit of the family without altering the title to or interests in the property.*” ²⁰ In this court’s mind therefore, taking the “holistic approach” advocated by the case law, ²¹ this court determines that these parties did not evidence any intention to have the claimant share beneficially in Mollihawk house as claimed.

[50] In this court’s mind this finding is also supported by the existence of the agreement of the 14th December 2016 in relation to which the court must now consider its efficacy.

Issue #2: Is the agreement dated the 14th December 2016 binding as between the parties?

[51] The court, having determined that the claimant is not entitled to a beneficial interest in Mollihawk, must now consider whether she is still entitled to enforce the terms of the agreement as signed between the parties in December 2016(the agreement).

[52] The contention of the claimant is that this agreement was signed under duress and undue influence. In support of this contention the claimant submitted that the following facts had been given in evidence i) that the claimant was living in conditions of serious disrepair in the cottage with the child of the family,ii) that the defendant was content

²⁰ **Pettitt v Pettitt** [1970]AC 777 per Lord Reid quoting Lord Denning MR in **Button v Button** [1968] 1 W.L.R 457 at 462

²¹ **Abbott v Abbott** Supra

for both the claimant and the child of the family to live in those conditions unless and until she would agree to forgo her claim in the matrimonial home, iii) she was not allowed to move into the matrimonial home unless she signed the agreement and indeed had the added pressure that her parents were coming to Antigua for Christmas and iv) that the claimant signed the agreement because she loved her husband and wanted them to live together as a family with their child. ²²

Court's analysis and considerations

[53] In the case of **Robert Murray v Reuben Deuberry et al**²³ the Court of Appeal by Floissac CJ set out the very clear parameters as to how undue influence is to be considered:

“15. The doctrine of undue influence comes into play whenever a party (the dominant party) to a transaction actually exerted or is legally presumed to have exerted influence over another party (the complainant) to enter into the transaction. According to the doctrine, if the transaction is the product of the undue influence and was not the voluntary and spontaneous act of the complainant exercising his own independent will and judgment with full appreciation of the nature and effect of the transaction, the transaction is voidable at the option of the complainant. This means that the complainant may elect to have the transaction rescinded if he has not in the meantime lost his right of rescission.

16. The modern tendency is to classify undue influence under two heads namely Class 1 (actual undue influence) and Class 2 (presumed undue influence). Class 2 is further classified under two sub-heads. The first sub-head is Class 2(A) which is descriptive of the legal presumption which arises from legally accredited relationships such as those existing between solicitor and client, medical advisor

²² Paragraph 32 of the submissions of the claimant filed on the 22nd May 2023

²³ Op Cit

and patient, parent and child and clergyman or religious advisor and parishioner or disciple. The second sub-head is Class 2(B) which is descriptive of the legal presumption which arises from a relationship whereunder the complainant generally reposed trust and confidence in the dominant party.

17. *In Barclays Bank PLC v O'Brian (1994) 1 A.C. 180 at 189 & 190, Lord Browne-Wilkinson explained Class 2(B) in these words:*

"Even if there is no relationship falling within Class 2(A), if the complainant proves the de facto existence of a relationship under which the complainant generally reposed trust and confidence in the wrongdoer, the existence of such relationship raises the presumption of undue influence. In a Class 2(B) case therefore, in the absence of evidence disproving undue influence, the complainant will succeed in setting aside the impugned transaction merely by proof that the complainant reposed trust and confidence in the wrongdoer without having to prove that the wrongdoer exerted actual undue influence or otherwise abused such trust and confidence in relation to the particular transaction impugned."

18. *In order to establish a legal presumption that a dominant party exerted undue influence over a complainant to enter into a transaction, the complainant must prove (1) that at or shortly before the execution of the transaction, there existed as between the dominant party (or his agent) and the complainant a relationship of trust and confidence from which undue influence by the dominant party over the complainant will legally be presumed and (2) that the transaction was to the manifest disadvantage of the complainant to a degree where it may be said to be unfair to the complainant or to be otherwise unconscionable."*

[54] In the case at bar it is therefore necessary for the claimant to prove that there was a relationship of trust and confidence as between the parties and further that the agreement was so manifestly disadvantageous to the complainant to warrant it to be called unconscionable. However, of even more importance is that the claimant must have pleaded this complaint in order for the defendant to have known the case he

was to answer. Nowhere in the claim that led to this suit was there any allegation as to undue influence. Indeed, it is widely accepted that although there is no need for extensive particulars in pleadings once witness statements are exchanged there is still a need to ensure that “...*the identification of the documents upon which a party relies together with copies of that party’s witness statements will make the detail of the nature of the case the other side has to meet obvious. ...this does not mean that pleadings are now superfluous. Pleadings are still required to mark out the parameters of the case that is being advanced by each party. In particular they are still critical to identify the issues and the extent of the dispute between the parties. What is important is that the pleadings should make clear the general nature of the case of the pleader.*”²⁴

[55] In the case at bar, this court is satisfied that this was never part of the relief sought by the claimant and the only mention in the “pleadings” of the claimant to this being an issue in contention was a one sentence mention in the reply filed by the claimant.²⁵ The defendant therefore never had the opportunity to be aware that this formed part of the case of the claimant and certainly relied on the agreement as the settlement of the interests as between the parties.

[56] Further and in any event this court is of the view that the claimant has led no evidence, cogent or otherwise setting out the circumstances which counsel for the claimant relies on as giving rise to the presumption of undue influence. Indeed, this court in perusing the evidence that was led before this court, is satisfied that the claimant has not established that there was any relationship of trust and dependence²⁶ as between these parties by 2016 nor were the terms of the agreement so manifestly disadvantageous to the claimant.

²⁴ Per Lord Woolf MR in **Mcfhilemy v Times Newspapers Ltd** [1999]3 ALL ER 775

²⁵ With respect to paragraph 54 of the Affidavit, the Defendant coerced me into signing an agreement for a lump sum in lieu of an interest in Mollihawk. This figure was not proportionate given the value of the property. The said Agreement dated 16th December is exhibited and marked ‘AD4’ and filed on 28th January, 2021.

²⁶ Indeed to the contrary the court has previously identified the communications as between the claimant and the defendant as to the timing when this agreement was signed and the clear indication from the defendant that he did not consider himself in a relationship with the claimant where he could have influenced her and the clear indication that the claimant had agreed to sign “something” so that she could move in – Page 88 of the Core Trial Bundle of Documents

[57] In this court's mind and supported by the evidence on cross examination of the claimant, it was clear that the claimant had no assets of her own at the time that she signed the agreement and that the parties made specific provision for the claimant at the termination of the relationship. Which did not include Mollihawk. It is this agreement that therefore guides, the manner in which the claimant is to be provided for now at the final breakdown of the relationship and which this court finds must stand in all the circumstances.

[58] Neither the claimant nor the defendant have asked for this agreement to be set aside and this court finds that there is nothing before it which can impugn its validity.

60. Therefore although there was no relief sought by either party in relation to this agreement, this court is mandated by section 20 of the Eastern Caribbean Supreme Court Act Cap 143²⁷ to ensure that all matters are determined and as such I therefore find that the agreement is binding as between the parties. How the terms are to be enforced, is a matter for the parties and cannot detain the court in these present proceedings.

[59] That brings the court to the final issue as it relates to the relief sought by the claimant.

Issue #3 is the claimant entitled to any interest in any other assets as claimed?

[60] Having made the finding that the agreement is binding as between the parties, this court must determine that the short answer to this question must be a resounding no.

²⁷ Section 20 : " The High Court and the Court of Appeal respectively in the exercise of the jurisdiction vested in them by this Act shall in every cause or matter pending before the Court grant either absolutely or on such terms and conditions as the court thinks just all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim or matter so that as far as possible all matters in controversy between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of these matters avoided."

[61] Further and in any event this prayer was not particularized to any extent to the point that when the claimant was cross examined on it, she seemed to be just as unaware as to what it in fact meant for her claim.

[62] This prayer is therefore dismissed.

Order of the court

1. The claim of the claimant is dismissed
2. Prescribed Costs to the defendant on an unvalued claim pursuant to Part 65.5 CPR 2000.

Nicola Byer

High Court Judge

By the Court

Registrar