

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(DIVORCE)**

**GRENADA
SUIT NO.GDAHMT2017/0167**

BETWEEN:

SABITA MARIA LIDDEL NEE BARRY

Petitioner

and

ORIN LEROY LIDDELL

Respondent

Appearances:

Ms. Claudette Joseph for the Petitioner

Ms. Sheriba Lewis for the Respondent

2021: November 30th;

RULING

- [1] **ACTIE J:** This is an application for ancillary relief. The Petitioner, Mrs. Sabita Maria Liddell is seeking a clean break from the marriage and is asking for a lump sum and maintenance for the minor children from Mr. Orin Leroy Liddell
- [2] The parties were married on 7th October 2000. The marriage lasted for eighteen (18) years and produced five (5) children, all of whom **Section 41 of the Matrimonial Causes Act** apply. The parties do not own any property.
- [3] Although the parties are divorced, I will refer to them as Mr. and Mrs. Liddell only for convenience. Mrs. Liddell has a degree in Social Work from the University of Guyana but never utilized her skills. Mr. Orin Leroy Liddell is a medical practitioner and has been the main bread winner in the family and currently works at the St.

George's University, Grenada. Throughout the marriage Mrs. Liddell, with the urgings of Mr. Liddell, stayed home and cared for the family.

- [4] By application dated 26th July 2018, Mrs. Liddell applied for ancillary relief for (i) maintenance of the children of the family in the monthly sum of \$8520.00, (ii) costs of Jonathan Liddell accommodation and living expenses in Grenada in the sum of \$1000.00 (iii) Costs of necessary relocation to Guyana including airfare in the sum of \$12,258.00 (iv) a one-off lumpsum payment of \$280,000.00 as a clean break. On 30th April 2019, Glasgow J continued an interim maintenance order for Mr Liddell to pay the monthly sum of \$4200.00.

Law and analysis

- [5] **Section 25 of the UK Matrimonial Causes Act 1973** ("the MCA Act), provides that where financial orders are being sought by parties in the dissolution of marriage, it shall be the duty of the court in deciding whether to exercise its discretion having regards to all the circumstances of the case and the factors set out there in namely:

Income, earning capacity, property and other financial resources

- (1) Mr. Liddell is a medical doctor and currently works with the St George's, University. He earns a salary approximately \$15,812.00 and does house calls charging \$100 or thereabout. He asserts that he is no longer engaged in private practice as he did in the past.
- (2) Mrs. Liddell has a degree in social work but never worked in that field. She did part time work at the St George's University as a standardised patient at \$27.00 an hour for an average of 15 hours a week. Mrs. Liddell constantly relied on financial support from her mother and other family members throughout the marriage.

Financial needs, obligations and responsibilities of the parties

- (1) Mr. Liddell states he has intention to follow up with his studies to be able to specialize in his field of expertise. He said he is obligated to the

maintenance of his family and has indeed been contributing to the maintenance of his children as ordered.

- (2) Mrs. Liddell on the other hand states that she needs to start a life of her own as she has been deprived of her own self-development. She said she never realised her dreams as she remained committed to taking care of her husband and children. She states that Mr. Lindell has neglected the children of the family and has been rather frugal in his spending on his family.

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

The parties from all accounts maintained a moderate standard of living.

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

Mr. Liddell is 54 years and Mrs. Liddell is 47 years. The marriage lasted for eighteen (18) years.

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

There is no evidence of any such disability.

Contributions of each of the parties

Mrs. Liddell remained home to take care of the home and family. Throughout the marriage, she was greatly assisted financially by her mother and other family members. Mr. Liddell was the only income earner.

Conduct of the parties

- (1) Mrs. Liddell states that Mr. Liddell was stingy with finance and also neglected the children. He showed little interest in the lives and wellbeing of the children. Mrs Liddell said that Mr. Liddell refused to participate in the children's birthdays and other activities. Mrs. Liddell

said further that Mr. Liddell would on the children birthdays simply drive into the yard, honk his horn to deliver gifts and drive off. Mr. Liddell left the matrimonial home in December 2015 on Mrs. Liddell's birthday, leaving her with the five (5) minor children and just days before her mother was buried.

- (2) Mr. Liddell admits leaving the home but contends that he has paid all the bills. He admits to being late at times and also admits to have stopped giving Mrs. Liddell cash in hand. It was the practice that Mrs. Liddell was required to send him a list of items needed, and he would purchase and deliver to her. At the trial, Mrs. Liddell spoke of waiting for days for items requested for the children. The evidence revealed a request for groceries made on the 30th September 2017 was delivered on 14th October 2017. Mrs. Liddell spoke of the extreme financial hardship she endured during the marriage.

Loss of benefits

The respondent is a medical doctor and there is no evidence of any loss to be suffered.

Analysis

- [6] As indicated earlier, the parties do not have any matrimonial assets to be divided. Mrs. Liddell is seeking a lump sum of \$280,000.00 in order to have a clean break from Mr Liddell. Liddell seeks the sum specially to upgrade her qualifications to a master's degree, to make herself marketable.
- [7] The court relies on principles espoused in the House of Lords decision in **Miller v Miller; McFarlane v McFarlane**.¹ **McFarlane v Mc Farlane** concerned a marriage lasting more than 16 years, with three children aged sixteen, fifteen and nine at the date of the hearing of the appeal. to the House of Lords. Both the husband and wife

¹ [2006] UKL.

had very successful careers. Both were professionally qualified- the wife as a solicitor and the husband as a chartered accountant. Prior to the birth of their second child, it was agreed that the wife would look after the home and the children while the husband concentrated on his career. On divorce, they agreed an equal division of the capital assets; however, there was not sufficient capital to achieve a clean break, so the district judge made a periodical payments order of £250,000 a year to the wife (a joint lives order). The award was reduced to £180,000 by the High Court, and the amount of £250,000 was restored by the Court of Appeal, but the duration of the order was limited to five years (an extendable term order).

[8] Their Lordships agreed that the objective of fairness would be achieved, beyond consideration for the welfare of the children of the marriage, by reference to the following elements: (1) consideration for the present and foreseeable financial needs of the parties; (2) compensation aimed at redressing any significant prospective economic disparity between the parties arising from the way they conducted their marriage; and (3) the principle of 'equal sharing', although it was emphasised that the 'yardstick of equality' was to be applied as an aid and not a rule.

[9] Baroness Hale of Richmond in **Miller and Mc Farlane**² stated as follows: "Section 25(2)(f) of the 1973 Act does not refer to the contributions which each has made to the parties' accumulated wealth, but to the contributions they have made (and will continue to make) to the welfare of the family. Each should be seen as doing their best in their own sphere. With respect to the needs approach Baroness Hale said³ explained the needs approach and opined that:

"The most common rationale is that the relationship has generated needs which it is right that the other party should meet. In the great majority of cases, **the court is trying to ensure that each party and their children have enough to supply their needs, set at a level as close as possible to the standard of living which they enjoyed during the marriage** (note that the House did not adopt a restrictive view of needs in *White*: see pp

² *Miller v Miller and McFarlane v Mc Farlane* [2006] UKHL 24 at paragraph 146

³ *Miller v Miller* [2006] UKHL 24

608g to 609a). This is a perfectly sound rationale where the needs are the consequence of the parties' relationship, as they usually are. **The most common source of need is the presence of children, whose welfare is always the first consideration**, or of other dependent relatives, such as elderly parents. **But another source of need is having had to look after children or other family members in the past. Many parents have seriously compromised their ability to attain self-sufficiency as a result of past family responsibilities. Even if they do their best to re-enter the employment market, it will often be at a lesser level than before, and they will hardly ever be able to make up what they have lost in pension entitlements.** A further source of need may be the way in which the parties chose to run their life together. Even dual career families are difficult to manage with completely equal opportunity for both. **Compromises often have to be made by one so that the other can get ahead. All couples throughout their lives together have to make choices about who will do what, sometimes forced upon them by circumstances such as redundancy or low pay, sometimes freely made in the interests of them both. The needs generated by such choices are a perfectly sound rationale for adjusting the parties' respective resources in compensation.**⁴(Emphasis added)

- [10] Mrs. Liddell states that she seeks a lumpsum payment by way of maintenance for herself so that she can get on her feet and lead a productive independent life. She states that she would like to work but has not been able to find work as her degree is obsolete. She said she needs to start pursuing a master's degree to get back in the job market.
- [11] The court in making a determination must have regard not only to the resources which each party has at the time of the hearing but also to those which they are likely to have in the foreseeable future. The respondent is a medical doctor. He said he no longer engages in private practice. However, there is nothing limiting from engaging in private practice.
- [12] The court is of the view that Mrs. Liddell made an exceptional contribution in giving up her entire career for eighteen (18) years to care for her children and her husband. Mr. Liddell's success in his medical practice can be attributed to Mrs Liddell's self - sacrifice in caring for the home and family during throughout the marriage.

⁴ Ibid at para 138.

- [13] It has been held that “ If the husband’s skill, initiative, hard work and drive yield handsome financial rewards, it is entirely unfair to regard those rewards as being any greater in value than those of the wife who might have employed equal skill, initiative and dedication at home bringing up the children and keeping a stable household”⁵.
- [14] The court in **White v White** states that “the respondent ought therefore not to be allowed to walk away from the marriage with his career intact, while the wife helped him build, and his prospect and opportunity to earning capacity more , while the wife walks away without anything”.
- [15] Mrs. Liddell has not provided evidence that Mr. Liddell has the means to pay the sum of \$280,000.00 claimed. Mr. Liddell likewise has not provided sufficient evidence to prove his inability to pay the lump sum neither did he propose an offer for a lower sum. Mr. Liddell speaks of loans and credit card payments but did not disclose his entire financial status and the balances on the loans and purposes for his use of the credit card. Mr Liddell was under a duty to give full disclosure and the failure may lead the court to making adverse assumptions. Mr. Liddell states that he no longer engages in private practice like he did before. However, in the court’s view, he did not proffer any satisfactory reason for not engaging in private practice along with his employment at St George’s university to increase his income.
- [16] It is well established that where a wife did not go out to work but brought up the family and did all that was required of her as a wife, a lump sum award may be made for the needs or reasonable assessment requirements of the wife.⁶ Each case must be determined on its own facts. The court must take into consideration the parties conduct and 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 burden. The court in such a case like the present must make orders designed to enable the

⁵ **Stonich v Stonich**. Per Saunders JA.

⁶ *Duxbury v Duxbury* (1985) (1990) 1 All ER 77.

spouse to adjust without due hardship to the termination of financial dependence on the other spouse.

- [17] The court accepts that Mrs. Liddell made great personal sacrifices and compromised her career to take care of her family. Mrs. Liddell did not provide any evidence that her degree is obsolete, or efforts made to gain employment were thwarted as a result. However, the court accepts that Mrs. Liddell at the age of forty-seven would definitely need some refresher's training to engage in her sphere of training especially not having utilized any of her qualification in eighteen years.
- [18] The court accepts that Mr. Liddell is high income earner with the capacity to increase his earnings by additional private practice. He speaks of his intention to further his studies to specialize, to remain current and to make himself more marketable. It would be unfair for Mr Liddell to continuously upgrade his skills and for his former wife to simply walk away without any assistance to improve her qualification which she was unable to utilize throughout her eighteen years dedicated to him and their children. It is to be assumed that Mrs Liddell has existing skills and can be re-trained and will eventually have a sufficient income to support herself.
- [19] The court in making the award takes into consideration that there is not any matrimonial asset and also that the family was financially dependent on relatives throughout the marriage. The court also takes into consideration that there are no other property assets and obligations such as mortgages to be paid by Mr. Liddell. Mr. Liddell speaks of his several credit cards and loans but did not give evidence of the final payment of the balances and the financial means to pursue his further training.
- [20] The court needs to make sufficient allowance to assist the wife to begin a new life which is not overshadowed by the past relationship. The effect of the breakdown means that Mrs. Liddell has to now obtain employment at this late stage in her life. Mrs. Liddell is to be put in a financial position as far as practicable in which she would

have been if the marriage had not broken down and each party had properly discharged his or her financial obligations and responsibilities to each other.⁷

[21] The court is of the view that Mr. Liddell is in a position to raise finances by way of a loan or otherwise to pay Mrs. Liddell a lumpsum payment in the sum of \$150,000.00 for her sacrifices made during the marriage of eighteen (18) years. The court in reaching this amount also took into consideration Mr. Liddell's obligation to maintain the minor children of the marriage.

[22] It is the evidence that Mrs. Liddell has relocated to Guyana with the minor children. She seeks the sum of \$12,258.00 for the necessary relocation to Guyana, including airfares. Mr. Liddell objects to that request for payment. He says that Mrs. Liddell left for Guyana on her own volition and proceeded on the pretext of a vacation and did not mention relocation. The court in exercising its discretion is always required to have regard to all the circumstances including the parties conduct. Mrs. Liddell has given any reason for the necessity to relocate to Guyana. Her relocation was her own doing. It suggests that she had the means to do so without discussion with Mr. Liddell. Accordingly, the court makes no award under this head.

[23] Mrs. Liddell seeks an order for maintenance of the children of the family in the monthly sum of \$8520.00. The court in 2018 made an interim maintenance order for the monthly sum of \$4250.00 which Mr. Liddell has been paying. The court takes judicial notice that the family has since relocated to Guyana. Mr. Liddell said that the cost of living in Guyana is much less than in Grenada. The court is not convinced that there should be a 100 % increase of the interim sum made by the court in 2018 and further affirmed in 2019. However, the court takes into consideration the effect of inflation and will accordingly increase the award to the sum of \$5000.00 monthly.

[24] Mrs. Liddell seeks living expenses and accommodation for Jonathan Liddell who presently resides in Grenada in the sum of \$1000.00. Mr. Liddell says that he

⁷ Gojkovic v Gojkovic [1990]2 All ER 84.

continues to provide for Johnathan along with the allowance paid to Mrs. Liddell. The court accordingly directs that Mr. Liddell continues to maintain his minor son Jonathan Liddell in the same manner until further order of the court.

Conclusion

[25] For the reasons above, It is hereby ordered as follows:

- (1) A lumpsum award in the sum of \$150,000.00 is made to the Petitioner, Mrs Sabita Maria Liddell.
- (2) Mr. Orin Leroy Liddell shall pay Mrs. Sabita Maria Liddell the said sum within six (6) months of today's date, unless otherwise agreed by the parties.
- (3) The costs for the relocation to Guyana is refused.
- (4) Mr. Liddell shall continue to provide maintenance to his son Johnathan Liddell who presently resides in Grenada.
- (5) The sum ordered in the order made in 2018 and continued by Glasgow J on 30th April 2019. is increased to a monthly sum of \$5000.00 with the other terms remaining unchanged until further order.
- (6) The parties are to bear their own costs.

Agnes Actie
High Court Judge

By the Court

Registrar