

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

**GRENADA**

**SUIT NO. GDAHMT2014/0088**

**BETWEEN**

**YOLANDE NOEL NÉE PRINCE**

**PETITIONER**

**AND**

**KENRICK BENEDICT NOEL**

**RESPONDENT**

**Appearances:**

Ms. Hazel Hopkin with Ms. Alicia Lawrence for the Petitioner  
Ms. Deborah St. Bernard for the Respondent

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2021: March 22;  
May 7.  
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**DECISION**

[1] **ACTIE, J.:** This is an application for ancillary relief filed by the petitioner (Ms. Prince) against the respondent (Mr. Noel) seeking property adjustment orders for a motor vehicle and property together with dwelling house thereon situate at Hope City in the parish of Saint Andrew in the State of Grenada. The application filed on 5<sup>th</sup> February 2016 seeks the following:

- (1) A property adjustment order for all that the matrimonial property with dwelling house thereon situate at Hope City in the parish of Saint Andrew and State of Grenada being part of the larger development scheme containing by admeasurement 13,110 square feet English Statute Measure and registered in the Deeds and Land Registry of Grenada in liber 28-2001 at page 70;
- (2) In the alternative an order that the property be sold, the mortgage paid off in full and the remainder be divided between Ms. Prince and Mr. Noel equally as the court deems fit;

- (3) A property adjustment order for the Honda CRV motor vehicle registration no. P618;
- (4) In the alternative an order that the said motor vehicle be sold and be divided equally between Ms. Prince and Mr. Noel as the court deems fit;
- (5) Costs;
- (6) Any other order that the court is minded to make pursuant to the application filed herein;
- (7) Liberty to apply.

**Petitioner's Evidence**

[2] On 30<sup>th</sup> November 2020 Ms. Prince filed a witness statement in support of her application for ancillary relief and states:

- (1) She is Store Clerk from Hope in the parish of Saint Andrew and says she first met Mr. Noel when she was about 31 years of years of age.
- (2) The parties share no children together, however the petitioner had four children prior to the marriage, all of whom are currently adults.
- (3) During the early years of their relationship, the parties lived at Ms. Prince mother's home at Dunfermline in the parish of Saint Andrew. During the currency of their cohabitation, she states that Mr. Noel made no financial contribution to the household.
- (4) In the year 2001 Mr. Noel purchased land at Hope City, Saint Andrew for the purpose of constructing the matrimonial home thereon, as they intended to get married. She exhibits a copy of the Deed and states that her name does not appear on the title deed, since at the time when the property was purchased, Mr. Noel persuaded her that it would be easier for him to obtain a mortgage given her meagre salary and as she had four children.

- (5) Mr. Noel began construction of the matrimonial home sometime in 2003 and the parties were married on 13<sup>th</sup> December 2003.

Financial resources

- (6) She has been employed as a Clerk at Smith's Furniture shop situate at Victoria Street, Grenville, Saint Andrew since 1993 and earns a monthly income of \$500.00. However, under cross-examination the Petitioner stated that her monthly salary was increased to \$656.00 in December 2018. Further, under cross-examination, she says that in 2019 she left her job at Smith's Furniture shop and became employed at Gittens Pharmacy, where she received a salary of \$846.00 until her employment at Gittens was terminated. At the date of trial, the petitioner disclosed that she is presently unemployed.
- (7) In her witness statement, Ms. Prince disclosed that she receives remittances and food items from her sister in the United States and from her daughter, who assisted her in paying the bills at the matrimonial home in or around 2014. She states that without the assistance of her family it would have been most difficult for her to survive. In relation to Mr. Noel's financial circumstances, the Ms. Prince avers that he is an Engineer and worked at LIME (Grenada) Ltd. formerly called "Cable & Wireless Co. Ltd." however she avers that is no longer employed at the said company and she is uncertain as to his present employment status.
- (8) With respect to the mortgage on the property, Ms. Prince states that Mr. Noel informed her that he paid off the mortgage using some of the money he received in his redundancy package from his former employer in 2017. She was further advised by Mr. Noel that he secured another mortgage over the property. On 10<sup>th</sup> June 2014, she conducted a valuation of the property, which was valued by Mr. John Adams at \$881,105.00.
- (9) In relation to the Honda CRV motor vehicle registration number P618, Ms. Prince states that the vehicle was purchased for her use. She states that since the vehicle was purchased, she has maintained and serviced it. She states that Mr. Noel took

possession of the vehicle after his vehicle malfunctioned and has not returned the keys to the said vehicle.

(10) Ms. Prince does not own any further assets, but believes that Mr. Noel has properties at Beausejour in Carriacou and Cabier in Saint Andrew.

(11) Since around 2006/2007 she assumed sole responsibility for the payment of utility bills and the purchase of food in the household which total \$1,277.74. Conversely, Mr. Noel was responsible for paying the mortgage. Mr. Noel ceased paying the utility bills after their fourth year of marriage.

#### Contributions

(12) Although Mr. Noel was responsible for paying the bills, Ms. Prince avers that she also made occasional payments, especially when Mr. Noel experienced financial difficulty or the bills were in arrears. She states that all of the furniture in the home was bought by her out of her own funds. The furniture included beds, chairs, mattresses and table in the matrimonial home, some of which she bought on higher purchase while others were bought in cash.

(13) In 2004 during hurricane Ivan, the roof of the home and the refrigerator were damaged. She avers that she contributed to the roof repairs and purchased a new refrigerator which she funded using proceeds of sale of her wedding gown. She also purchased tiles for the home and a new toilet. However, the tiles were not installed as Mr. Noel refused to provide the labour costs.

(14) When the house was being painted, the Ms. Prince states that she was responsible for providing meals to the workers who volunteered their services.

(15) Ms. Prince states that since 8<sup>th</sup> February 2016 she began feeling uncomfortable in the matrimonial home. On 23<sup>rd</sup> February 2016 moved out of the matrimonial home and secured accommodation in the same neighbourhood of Hope.

#### **Evidence of Jean St. Cyr**

[3] Ms. Jean St. Cyr filed a witness statement in support of Ms. Prince's application. In the witness statement, Ms. St. Cyr states that she is employed as a Store Clerk at Smith's Furniture Shop

in Grenville. She met Ms. Prince at the said furniture shop, and they worked together until the end of 2018 when the Ms. Prince took up new employment at Gittens Pharmacy in Grenville.

- [4] Ms. St. Cyr states that after the parties married and the house was built, Ms. Prince purchased a number of furniture items, including beds, mattresses, chest of drawers, among other things on higher purchase. Ms. Prince occasionally travelled to the United States and sent barrels with food stuff, curtains, clothing and other items for the house. Ms. Prince's sister, Theresa, would also ship barrels to Grenada. She states that to date, Ms. Prince is still contributing to the household because she is paying the shop for some of the other items that were purchased.

#### **Evidence of Theresa Thomas**

- [5] Ms. Theresa Thomas, who is the sister of Ms. Prince and resides in New York, United States of America gave evidence both in her witness statement and at trial. She said that she and her sister maintained a close relationship where she would send items from the United States, such as groceries, bedsheets and other items for the household. Whenever she visited the matrimonial home in Grenada and noticed that the home lacked anything, she would purchase such item(s) on her return to the United States and would send these items in a barrel. Those contributions were made on behalf of her sister.
- [6] Ms. Thomas avers that sometime in early 2003 before the parties were married, Ms. Prince visited her in the United States. At that time, she avers that the parties were living at her mother's former home at Dunfermline, Saint Andrew. Ms. Prince packed a barrel and shipped groceries, curtains, bedsheets, among other things for the home. Ms. Prince travelled to the United States every year and would not return without shipping one or two barrels of items for the home. Ms. Thomas states that she personally assisted Ms. Prince in packing these barrels with household items. She avers that Ms. Prince cooked, washed, cleaned and ironed all of Mr. Noel's work clothes every Sunday.

#### **Respondent's Evidence**

- [7] Mr. Noel, the respondent, says that he is a 58-year-old Engineer and retired from his employment at Cable & Wireless (G'da) Ltd. on 30<sup>th</sup> June 2009. In or about the year 1999 he met Ms. Prince, who was a single mother of four (4) children. Prior to their marriage he, together with his brother, resided at his deceased parents' home situate at Crochu in the parish

of Saint Andrew. Mr. Noel states that sometimes Ms. Prince visited him at Crochu, but after her mother died, he decided to spend more time with her and her family at Dunfermline.

[8] Mr. Noel avers that he contributed groceries and supplies for the home at Dunfermline whenever he visited given Ms. Prince's low salary and financial circumstances. He avers that the home at Dunfermline did not have indoor sanitary facilities and therefore he provided fittings and plumbing services and the Ms. Prince's brother provided the masonry services for the construction of indoor sanitary facilities.

[9] Mr. Noel avers that he did not promise to marry Ms. Prince at the time of the acquisition of the property at Hope City. Mr. Noel further avers that he had relations with other people while he was involved in a relationship with Ms. Prince, which she was aware of. The house at Hope City was constructed using the proceeds of a mortgage from First Caribbean International Bank in June 2003. At the time of construction, he states he did not have plans to marry Ms. Prince. Upon his retirement he paid off a portion of the loan and is still repaying the loan as a retired person. He makes all the repayments towards the mortgage without any contribution by Ms. Prince, even while retired.

[10] When the Honda CRV registration no. P618 was purchased Ms. Prince was out of state and upon her return he allowed her to use the vehicle as he had access to another vehicle. He states that the arrangement was that Ms. Prince would be responsible for the purchase of gasoline for the vehicle. Mr. Noel denies Ms. Prince's allegation that she maintained the car from the time the vehicle was purchased. However, he admits that there were times when Ms. Prince repaired the vehicle and demanded reimbursement for the cost of the repairs.

[11] In relation to the repairs of the matrimonial home after Hurricane Ivan in 2004, Mr. Noel states that he secured a loan of \$58,960.00 from First Caribbean International Bank to facilitate those repairs. With respect to Ms. Prince's receipt from M&N Hardware in the sum of \$694.20, Mr. Noel states that the receipt produced is dated 22<sup>nd</sup> March 2008, which is three years after the completion of the repairs. He states that he was responsible for the repairs and maintenance of the matrimonial home. Further, Mr. Noel recalls paying a painter to repaint the matrimonial home sometime in 2012 or 2013. Mr. Noel states that he, together with the assistance of his brother, painted the home.

[12] When the Ms. Prince left the matrimonial home in March 2016 she took virtually every item of furniture in the home. Ms. Prince did not inform him that she was leaving. Ms. Prince also took a propane gas tank and some tiles that she purchased to replace the broken ones in the home. He states that he has no knowledge of Ms. Prince selling her wedding gown in order to purchase a refrigerator and avers that he is the one who purchased a small refrigerator and a small deep freezer without any contribution from Ms. Prince. With regard to the property taxes, Mr. Noel states that he made those payments.

[13] Mr. Noel states that with regard to the property adjustment order, he is of the view that Ms. Prince settled her claim by removing every removable asset from the home, which left him having to refurnish the house and still continue to make the mortgage payments. He opposes the order for sale of the property and the division of the proceeds of sale in equal shares. Such a decision he says would put him in extreme financial difficulty.

### **Evidence of Augustus Noel**

[14] Mr. Augustus Noel gave evidence at the trial on behalf of the respondent. He says:

- (1) He is a building contractor and was contracted by Mr. Kenrick Noel to construct a house on his lot of land at Hope City. Mr. Noel gave him the drawings which were already approved by the planning authorities. They discussed the drawings and costs of the project as well as the payments for construction.
- (2) Further, he and Mr. Noel agreed that construction was projected at 4 to 5 months and the works excluded the painting of the home. The project started in June and during construction he met with Mr. Noel on a weekly basis when Mr. Noel visited the project. The project completed in October 2003. He states that at no point in time did he meet with Ms. Prince whether on site or otherwise.
- (3) After the passage of Hurricane Ivan in September 2004 the house was damaged. Sometime in 2005 Mr. Noel contracted him to work on the roof which was damaged by the hurricane. All of his dealings with the repairs were with Mr. Noel, including payment of his costs.

### **Discussion and Analysis**

[15] The court in exercising its discretion to grant property adjustment orders is enjoined to examine the factors outlined in **Section 25 of the UK Matrimonial Causes Act 1973** with respect to the parties in the application. The factors are well-known and need not be restated.

Income, earning capacity, property and other financial resources

[16] Counsel for the petitioner, Ms. Alicia Lawrence, in her written submissions filed on 29<sup>th</sup> January 2021 submitted that while Mr. Noel is a retiree, he was always a high-income earner him being an Engineer with Cable & Wireless when the parties met. Ms. Lawrence states that, even though Ms. Prince is not retired, the likelihood of her earning capacity increasing is unlikely. She states that throughout the marriage the Ms. Prince earned less than \$800.00 per month.

[17] Counsel for the respondent, Ms. Deborah St. Bernard, in her written submissions filed on 1<sup>st</sup> February 2021 submits that Mr. Noel is a retiree who receives earnings from occasional contract jobs. Counsel states that Mr. Noel on average receives monthly income in the sum of \$1,500.00 from these contract jobs. Counsel states that Ms. Prince earns approximately \$695.00 monthly with an annual salary of \$8,340.00.

[18] At trial and under cross-examination, Ms. Prince revealed that she is currently unemployed. Ms. Prince says that she and a few other former co-workers were made redundant by her former employers at Gittens Pharmacy as a result of the Covid-19 pandemic. Ms. Prince gave no indication whether she is currently seeking employment or receives any other income. The evidence before the court shows that the Mr. Noel on average has a higher income and earning capacity than that of Ms. Prince.

Financial needs, obligations and responsibilities

[19] Ms. Prince in her witness statement avers that her monthly household expenses total \$1,277.74. Further, she avers that that since 2006/2007 she assumed sole responsibility for payment of utility bills. Mr. Noel in his supplemental affidavit filed on 1<sup>st</sup> February 2021 states that his monthly expenses total \$1,545.00, which includes loan payments, electricity bill, food, among other things.

Standard of living

[20] The evidence suggests that the parties enjoyed a reasonable and descent standard of living during the marriage and immediately prior to its breakdown. Further, the evidence suggests



that the parties, including the children of Ms. Prince, who also lived in the household, were able to enjoy the basic necessities of life.

Age of the parties and duration of marriage

[21] Ms. Prince is 53 years old, and Mr. Noel is 58 years old. The parties were married on 13<sup>th</sup> December 2003 and the marriage was officially dissolved on 16<sup>th</sup> July 2015. Therefore, the marriage lasted approximately twelve (12) years.

Mental or physical disability

[22] There is no evidence that either of the parties suffer from any mental or physical disability.

Contributions

[23] Ms. Prince's contributions:

- (1) Provided meals to friends who volunteered to assist the family in painting the matrimonial home.
- (2) Purchased furniture and household items for the matrimonial home.
- (3) Packed and sent barrels of items for the household after her yearly trips to the United States.
- (4) Cleaned and maintained the household.
- (5) Cooked and washed for the entire household.
- (6) Made occasional payments to the utility bills when Mr. Noel was unable to do so and began regularly contributing to the utility bills from the year 2014.
- (7) Replaced tiles in the veranda of the matrimonial home that became displaced.

[24] Mr. Noel's contributions:

- (1) The breadwinner for the household.
- (2) Brought the home at Hope City aforesaid into the marriage.
- (3) Paid the monthly instalments of the mortgage.
- (4) Paid a substantial amount of the proceeds of his retirement package on the mortgage.

- (5) Paid most of the utility bills for the household.
- (6) Paid the insurance and the annual property taxes for the matrimonial home.
- (7) Repaired the roof of the matrimonial home utilising the proceeds of an additional loan.
- (8) Provided general maintenance of the matrimonial home.

#### Conduct

[25] This conduct of the parties will be considered in determining what share, if any, the petitioner, Ms. Noel, is entitled to in the matrimonial home. The uncontroverted evidence is that Ms. Noel made a sudden departure from the matrimonial home in February 2016 taking every item of furniture and the majority of the household items, including tiles, appliances, gas cylinder, among other things.

#### Loss of benefits

[26] There is no evidence that the parties have suffered or is likely to suffer from any loss of benefits as a result of the dissolution of the marriage.

#### **What is Ms. Prince's share entitlement in the matrimonial home?**

[27] Mr. Noel denies that the purchase of the land and the construction of the home at Hope City were done in contemplation of marriage. Mr. Noel states that he built the home at Hope City before the parties were married and the construction of the property was not a joint endeavour.

[28] It is the evidence that Mr. Noel resided with Ms. Prince at her mother's home during the period of the construction of the matrimonial home. The court is of the view that the home had a central place in the marriage and became the parties' matrimonial home. The court is also of the view that since the matrimonial home was built in 2003, the same year that the parties married, suggests that it was built in contemplation of the marriage. In fact, it is notable that the matrimonial home was completed sometime in October 2003 approximately two months before the parties were married on 13<sup>th</sup> December 2003 and moved in together.

[29] Therefore, what is left to determine is Ms. Prince's share entitlement, if any, in the matrimonial home. The general rule is that matrimonial assets ought to be shared equally between the parties unless there is good reason to depart from the principle of equality.

[30] Baroness Hale of Richmond in the House of Lords case of **Miller v Miller and McFarlane v McFarlane**<sup>1</sup>, when considering the factor of contributions elucidated that:

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. **Only if there is such a disparity in their respective contributions to the welfare of the family that it would be inequitable to disregard it should this be taken into account in determining their shares**<sup>2</sup>. (Bold emphasis mine)

[31] Whether there is good reason to depart from the principle of equality depends on the circumstances of each case. In applying the learning from Baroness Hale in **Miller** to the facts of this case, the court finds good reason to depart from the principle of equality. For one thing, the contributions of the parties financially and otherwise to the household were not equal. The land at Hope City was purchased by Mr. Noel in 2001 and the home was completed in 2003. This was the largest contribution to the marriage and must be attributed to the effort of Mr. Noel. While the court will not trivialise Ms. Prince's contributions to the needs of the household, the matrimonial home which is valued at over \$800,000.00 (made at the instance of the Ms. Prince) is a significant investment to the marriage which must be imputed to Mr. Noel.

[32] In determining what share each party is entitled to, the court must consider the whole course of dealings between the parties in relation to the property and determine what is fair in the circumstances. In doing so it must be noted that financial contribution is only one of the relevant factors<sup>3</sup>.

[33] The court accepts that the financial contribution for the acquisition of the land and the construction of the matrimonial home was generated by Mr Noel. It is the evidence elicited at the trial that the petitioner initially did not have any inclination to reside at Hope City as she was of the view that the property was under "bush". Ms. Prince made demands of Mr. Noel for the reimbursement of any expenditure that she made for the maintenance of the matrimonial home

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<sup>1</sup> [2006] UKHL 24

<sup>2</sup> Ibid at para. 146

<sup>3</sup> Jones v Kennot [2011] UKSC 53

and the motor vehicle. Ms. Prince said that she sold tiles that she bought with her own money when Mr. Noel failed to make arrangements to lay the tiles.

[34] Mr. Noel conceded that Ms. Prince purchased some items of furniture and that she was assisted by her sister in sending items from the United States for use in the house. The court takes into consideration the uncontroverted evidence that Ms. Prince removed nearly all of the furniture and household items from the home.

[35] From all accounts, Ms. Noel by her conduct and demands made of Mr. Noel for the reimbursement of any monetary expense made in relation to the matrimonial home suggests that she treated the home as belonging to Mr. Noel. However, the court is required to take into consideration Ms. Prince's domestic contributions made towards the upkeep of the house and her children, who were treated as the children of the family during the marriage. The court is of the view Ms. Prince's contributions give her an entitlement in the matrimonial property. However, it would be inequitable to disregard her conduct in removing all the furniture and every item that she purchased from the matrimonial home. At the trial, Ms. Prince states that the furniture and other items were in the value of \$19,000.00. Taking into consideration all the factors of the case, the court is of the view that an award of fifteen percent (15) % share of the value of the matrimonial home at Hope City to Ms. Prince is a fair division in the circumstances.

#### **Whether Ms. Prince is entitled to the Honda CRV motor vehicle**

[36] It is Ms. Prince's evidence that the Honda CRV motor vehicle registration no. P618 was purchased for her use. Conversely, Mr. Noel avers that he purchased the vehicle and allowed Ms. Prince to use it. Mr. Noel further avers that the vehicle was not retained by him and is now worth mere scrap value. Whereas Ms. Prince provided a valuation of the matrimonial home she did not provide any evidence of the value of the said vehicle. In light of the above circumstances as it relates to the present condition and value of the motor vehicle, the court is of the view that Ms. Prince's prayer for a property adjustment order of the said motor vehicle registration no. P618 should be refused.

#### **Conclusion**

[37] For reasons advanced above, it is declared and ordered as follows:

- (1) That the petitioner, Ms. Prince, is entitled to a fifteen percent (15%) share or interest in the property with dwelling house thereon situate at Hope City in the parish of Saint Andrew in the parish of Grenada known as "Lot 21 B" which is referred to in the Deed of Conveyance dated 14<sup>th</sup> November 2001 made between Hope City Limited of the one part and Mr. Kenrick Noel of the other part and recorded in the Deeds and Land Registry of Grenada in liber 28-2001 at page 70 (the said property).
- (2) The petitioner, Ms Prince and the respondent, Mr Noel, are to agree to a joint valuer who will value the said property within 45 days of the judgment. If the parties cannot agree on a valuer, one shall be appointed by the court. The costs of the valuation are to be borne jointly by the parties. Upon completion of the valuation, Mr. Noel is to pay to Ms. Prince fifteen percent (15%) of the value of the said property within four months.
- (3) If the respondent, Mr. Noel, fails to comply with the above order (2), the Registrar of the High Court shall sell the said property via public auction with a reserved price as per the valuation. The proceeds of sale shall be utilised to satisfy any outstanding debt on mortgage(s). The petitioner, Ms. Prince, shall be entitled to fifteen percent (15%) of the net proceeds of sale and the respondent, Mr. Noel shall be entitled to the remainder.
- (4) The petitioner's prayer for a property adjustment order and/or an order of sale for the Honda CRV motor vehicle registration no. P618 is refused.
- (5) Each party is to bear its own costs.
- (6) Liberty to apply.

**Agnes Actie**  
High Court Judge

**By the Court**

**Registrar**