8 UPPER GROSVENOR STREET, LONDON, W1K 2LY TEL: +44 (0)20 7499 5599

Z v A [2012] *EWHC 1434 (Fam)*

Application under Part III of the Matrimonial and Family Proceedings Act 1984: the correct approach in truly "international" cases; independent wealth and separate finances; short marriage; needs

The parties both married and divorced (consensually) in a foreign jurisdiction. The marriage lasted 4½ years and produced one child, aged 4, who lived with his mother. At the time of divorce, the wife's wealth, which derived from her family's fortune, was about £7m. The husband was worth £34m, all of which was realisable. Prior to divorce, neither party intended or expected there to be any financial arrangements arising out of divorce other than in relation to the child.

The wife had a connection to England, but neither the husband nor the marriage did. Only 15 months of the marriage had been spent in London and this before the birth of the parties' child. The husband had never bought any assets in England; the wife owned one flat in Knightsbridge.

Coleridge J noted the "scale" of award adopted in Part III cases since Agbaje v Agbaje [2010] 1 FLR 1813, by reference to the parties' connections to this jurisdiction. Where connecting factors with England are extremely strong, the applicant's claim may be treated as though it was made in purely English proceedings. At the other end of the scale, in truly international cases with only some English connection, Part III should not be used to top-up provision made by a foreign court.

The Judge categorised this as a needs case and did not consider arguments of sharing and compensation. Coleridge J saw no justification for limiting the wife's case to a quasi-Schedule 1 case i.e. by restricting her claims to a housing fund for the child's minority. This was because the parties had been married, the husband's fortune and the wife's contributions as a wife and mother were relevant and it was desirable to achieve a clean break.

The husband was ordered to pay a lump sum of £3m to include provision for housing (circa £2m) and capitalized maintenance (circa £1m). £50,000 per annum child maintenance was ordered,

which was to be secured due to the husband's globe-trotting lifestyle.

Summary by Juliet Chapman, barrister, Lamb Building

IN HIGH COURT OF JUSTICE
FAMILY DIVISION
[2012] EWHC 1434 (Fam) No. FD10F00869

The Royal Courts of Justice

Wednesday, 9th May 2012

Before:

MRS. JUSTICE COLERIDGE
(In Private)

B E T W E E N :

Z Applicant

- and -

A Respondent

Transcribed by BEVERLEY F. NUNNERY & CO
Official Shorthand Writers and Tape Transcribers
Quality House, Quality Court, Chancery Lane, London WC2A 1HP
Tel: 020 7831 5627 Fax: 020 7831 7737
info@beverleynunnery.com

MISS L. STONE QC and MISS C. BATT (instructed by Kingsley Napley) appeared on behalf of the Applicant.

MR. N. DYER QC and MISS E. CLARKE (instructed by Sears Tooth) appeared on behalf of the Respondent.

J U D G M E N T
(Approved)

MR. JUSTICE COLERIDGE:

1. On 6th March this year, following an eight day hearing which took place in December last year and one day in January of this year, I delivered a judgment on the first part of this application which is by a wife under Part III of the Matrimonial and Family Proceedings Act 1984 ("the first judgment"). This judgment carries on from the foot of that one and is based upon the factual and other findings I made in that first judgment. This hearing has therefore been concerned to consider the significance of the findings I made and translate them into figures, and ultimately financial provision for the wife and the child, now just 4. The child is living full time with his mother. This second hearing has taken a further three and a half days of court time.

2. Let me start by stressing two matters. Firstly, I said last time that I found this a peculiarly

difficult case to decide. I remain of that view now and especially so given the unusual factual findings which I have now made. Secondly, I have neither read nor heard anything during the intermediate directions hearings or during this hearing which causes me any concern that my findings need reconsideration. Indeed, on the contrary; such further evidence as I have read and heard rather confirms them in my mind. In this respect, I am also confirmed in my findings about the parties' credibility and, finally, the overall impression the parties made on me this time is the same as during the last hearing.

3. Let me also start by re-emphasizing, if that is needed, that this is a claim under Part III of the Matrimonial and Family Proceedings Act 1984 and not an English claim for financial relief following an English divorce. I refer to the opening passages in the first judgment in this respect. Of course, there are many similarities, especially at this quantum stage, but the court is not, in the end, conducting the same exercise.

4. The parties' respective approaches to this claim by the wife and child is, and always has been, wildly divergent, as is illustrated by their open offers.

5. The wife seeks outright capital provision in the form of a lump sum of £8 million, made up of the aggregate of £4 million for housing and £4 million for an income fund. In addition, she seeks income provision of £60,000 per annum for the child, which is the sum the husband already offers, but of course he offers that on the basis that there should be no income provision for the wife herself. The wife also seeks an order for her costs.

6. The husband offers, in effect, provision on the basis that this is a quasi-claim under Schedule 1 of the Children Act 1989. So he offers a housing fund of £2.5 million for the wife and child's benefit but only until the child has completed tertiary education - that is to say in about 20 years' time. He also offers the £60,000 per annum income provision for the child but nothing separately for the wife.

The evidence

7. It has taken the form of further statements by the parties and many other documents which, in particular, evidence the parties' positions in relation to appropriate housing for the wife. I

have also heard orally from the parties again, from the wife at some length, and from the husband much more briefly. I had a statement, additionally from a Bahamian lawyer. It was introduced seemingly to bolster my previous findings. In the event, I think it was unnecessary and added nothing to what I had previously said or found. Once again I have been treated to excellent notes, skeleton arguments and multi-coloured schedules.

The essential facts and findings from the previous judgment
8. This part of the claim is, of course, assessed by reference to the findings I have already made viewed against the backdrop of current law as encapsulated by the decision of the Supreme Court in Agbaje v Agbaje [2010] 1 FLR, 1813. I start with the factual findings. So far as the basic factual background and chronology is concerned, the first judgment set out the history leading to the filing of the claim by the wife in 2010. I refer especially to the very full agreed chronology which was produced for the last hearing.

9. Since then the wife has remained living in this country in a rented property in Surrey, near where her sister also lives. Although her own London flat in Knightsbridge has become vacant she has not moved back there, partly because the child likes the extra space of the rented property in the country, and partly because it is now on the market for sale. She has continued to live on her own resources, paid from her brother as dealt with in the first judgment and they are augmented by £3,000 per month paid by the husband for the child. The husband has continued his global peripatetic existence, moving from place to place and seemingly spending considerable time in hotels.

10. So far as the findings which especially inform this part of the claim and form the framework within which the award should be made, both sides have helpfully extracted and reproduced them in their written material. There is in fact really very little difference between them. For convenience I shall reproduce them now. I read from the first part of Mr. Dyer's note filed by way of closing submissions. He puts it this way, quoting from the first judgment:

- "- the key findings – which should determine the framework within which the award is made.

i. At the time of the marriage she [W] had assets (properties and cash) worth in broad terms

$10m. (31)

ii. Overall I accept on the totality of their {H's witnesses] evidence (and that of the husband) that the wife did talk about her family's financial situation and she did say things which left them with the clear impression that the marriage was taking place in Country Y because they had agreed that it should take place there, that they intended to keep their finances separate and because of the ease with which either party could extract him or herself from the marriage with the minimum of financial ramification.

iii. I do not think either side is telling the whole truth and both have to an extent rewritten history, wittingly or unwittingly, to fit in with the subsequent events.(68)

iv. In 2009 neither side intended or expected there to be any financial arrangements arising out of the divorce other than in relation to the child. (65)

v. I am also satisfied that there were conversations about the broad basis upon which they were getting married and the way in which they would manage their money thereafter. (76)

vi. How would this husband and this wife have answered the question, if asked at the time of the wedding "Do you intend to make a financial claim if and when the marriage ends?". I am quite satisfied by inference, to the point of being sure, that the answer would have been, in both directions "only if I really need to".

vii. The parties agreed to get married and divorced in Country Y and the marriage and the wedding went ahead on the broad but somewhat vague understanding that neither expected to look to the other for financial support during the marriage unless they had to.

viii. Their finances were kept almost entirely separate during the marriage as part and parcel of that. In the event of its ending the clear inference which I draw, is that they considered that their obligations to each other should be at the very worst, limited.

ix. There was not even a tacit or implied acceptance that their wealth would be divided up and

shared at the conclusion of their marriage.

x. [Re sale of W's shares to her brother] I think that this degree of informality, upon which the wife and other members of the family completely relied, places him [her brother] under a very strong (moral) obligation, to provide for her financially from the family fortune in the coming years whether or not strictly she has a need for support

11. Mr. Dyer also points out other factors which he says are very relevant. He encapsulates them in paragraph 3 and 4 of his note, including a table which deals with what he described as "the international factors in the case". Broadly speaking, it is a neutral summary and so helpful to the court:

Other factors
1. Further to the findings, there are the magnetic 'neutral' factors that are highly material in the court's consideration of sections 16 and 18 of Part III viz:

a. This was a short(ish) marriage that lasted for only 4½ years and produced one child;

b. W is (and has been for many years) a wealthy woman with c£7m of assets of her own now and with considerable family wealth behind her;

c. The parties married and divorced (consensually) in a country (W's by birth and of lasting attachment) that W accepted afforded no legal redress to either party in the event of divorce.

d. Although W has a substantial connection to this jurisdiction, both H and the marriage itself do not. This is not a marriage that was English from the beginning to the end, or a case that is English through and through. This is, in reality, a very international case.

e. (W would emphasise) H's wealth of c£34m was generated substantially during the marriage – but that is of less significance in a needs case as opposed to a sharing case.

2. The table below sets out the international dimensions of the case.

1. W born in Country Y and educated in Country R: (in Europe), lived in City UA for further education and then in City UB (both cities the USA).

H born in City S the capital of Country S. Educated in Country S (with one year at a college in England when H aged 20)

2. Before they met W had lived in England from 1987.

Before they met H lived in Europe.

3. W has dual Country Y and UK citizenship.

H has Country S / Country V nationality

4. W acquired a flat in London in Knightsbridge, and in 2000 started her accessories company which focused on the international fashion market with W travelling around the world sourcing materials and going to shows.

H never acquired any property in England (even in later years when he was rich).

5. W retained strong connection with Country Y: she went regularly to visit her parents/mother.

6. W owned shares in a Country Y family company and property and land in Country Y.

7. 2002/3 relationship began: W lived in London H lived in City R in Country R

8. March 2003 - H worked for a hedge fund based in London, but abroad much of the time – sufficient time abroad to justify being (retrospectively) non resident for tax purposes.

9. March 2004 H moves into W's Knightsbridge flat

10. Marriage in City Y (capital city of Country Y) : celebrations in City Y and in Country S
11. Sept 2004 to Dec 2005 15 months married life in London
12. Dec 2005 to mid 2009 3½ years of married life in the Bahamas. Parties obtained Permanent Residency visas.
13. W instructed agents to place her Knightsbridge Flat on the market for sale.

H bought properties and assets (boats etc) in various countries – none of them were in England.

14. The child born in Country J (in Europe). The child did not live in London during the marriage.

15. On separation, W left the Bahamas and (via the USA) went to live in City S from June 2009 until April 2010.

On separation H was nomadic.

16. 16 September 2009 - divorce by khula in City Y.(W was the petitioner)

17. 17 September 2009 W's draft agreement sent to H by W's lawyer in City S on basis that W was resident in City S. W was intent on issuing proceedings in City S to have agreement made into an order.

18. W returned to England in April 2010.

H has only been in London post separation due to the Part III proceedings.

19. W commenced Part III proceedings in October 2010 (her third 'divorce' forum after City Y and City S)

12. On the other side of the argument, the wife emphasizes, in particular, the very real English connections which the case has with this country, and additionally, and importantly, the clear scale of the husband's fortune, all generated during the marriage; the very high standard of living enjoyed by the parties both before and after their marriage, and the wife's contribution to the marriage and to the upbringing of the child both up to now and, of course, into his majority.

13. I accept all the points on both sides and would add these further points which I consider are worthy of special mention.

14. Firstly, the child's interests are of primary importance, both by virtue of Section 18 of the statute and because of the desirability, if possible, of his re-establishing a relationship with his father. At the moment it is non-existent. That is not only sad but from the child's point of view, bad for his development. It is also largely of the husband's choosing, as I find. The mother is more than willing to reintroduce the child to father in a sensitive and child-focused way. Unfortunately the husband sees the wife's attempts in this regard as part of a wider conspiracy by her to control him.

15. Secondly, this forensic war has been in train now since 2009 and in various jurisdictions. The need for a complete ceasefire is as pressing as ever. A clean break is both highly desirable and, given the scale and liquidity, easily achievable. There is no merit whatever in these parties remaining connected, whether financially or otherwise. I shall bear that fully in mind in my consideration of the possible solutions and in deference to the statute. Thirdly, the resources in this case are indeed very large. Overall they are in the region of £40 million. It is against that background that the figures and estimates must be made. All needs are relative in these cases.

16. So far as the law is concerned section 16-18 of the statute contains the relevant statutory provisions. The proper interpretation of those sections is to be found in Agbaje to which I have already referred. I read just two sections. Paragraph 70 reads:

"... Section 18 could have provided that, once England and Wales was to be regarded as the appropriate forum under section 16, then the case was to be treated as a purely English proceeding

for financial relief. But it did not do so. Instead a more flexible approach was deliberately adopted. There will be some cases, with a strong English connection, where it will be appropriate to ask what provision would have been made had the divorce been granted in England. There will be other cases where the connection is not strong and a spouse has received adequate provision from the foreign court. Then it will not be appropriate for Part III to be used simply as a tool to "top-up" that provision to that which she would have received in an English divorce."

Then at paragraph 73 of the speech of Lord Collins he says:

"73. The amount of financial provision will depend on all the circumstances of the case and there is no rule that it should be the minimum amount required to overcome injustice. The following general principles should be applied. First, primary consideration must be given to the welfare of any children of the marriage. This can cut both ways as the children may be being supported by the foreign spouse. Second, it will never be appropriate to make an order which gives the claimant more than she or he would have been awarded had all proceedings taken place within this jurisdiction. Third, where possible the order should have the result that provision is made for the reasonable needs of each spouse. Subject to these principles, the court has a broad discretion. The reasons why it was appropriate for an order to be made in England are among the circumstances to be taken into account in deciding what order should be made. Where the English connections of the case are very strong there may be no reason why the application should not be treated as if it were made in purely English proceedings."

There are other sections in that part of the judgment which are helpful too but I shall not burden this judgment with their inclusion. I have the case well in mind, unsurprisingly.

17. So it seems to me, as I observed in argument, that there is, in these cases, a kind of scale and the court's task firstly, especially in what Mr. Dyer described as "an international case" is to try and fix upon the appropriate scale depending upon all the circumstances. Mr. Dyer has illustrated this point with a diagram and it is useful and worthy or reproduction, He said :

18. "The Court was right to observe that the awards in the Part III cases can be seen on a scale. Lord Collins identified the different ends of the scale were largely determined by the connec-

tions with this jurisdiction.

...when almost all relevant connecting factors are with England. In those circumstances here would be no reason not to apply English law so as to give the same provision for the wife as she would have obtained had there been divorce proceedings in England.

It is not the purpose of Part III to allow a spouse (usually, in current conditions, the wife) with some English connections to make an application in England to take advantage of what may well be the more generous approach in England to financial provision, particularly in so-called big-money cases.

19. In the end I regard this as essentially and truly an international case with substantial connections both to this country and to other jurisdictions, both continental and Middle Eastern as well.

20. I intend to approach the wife's claim on the basis of what is fair and reasonable provision for her and the child's needs against the background of all the circumstances, financial and otherwise, but without in this case importing special local domestic law notions of sharing and compensation.

21. The circumstances of this Part III application do not justify, in my judgment, the inclusion of those modern extra-statutory notions which were brought into existence by the Supreme Court to deal with the fact that English ancillary relief law had become stuck and needed modernising where it seemed the United Kingdom parliament was paralyzed by inactivity in this field. In the end I did not detect much dissent from Miss Stone about the adoption of this approach. She said, rather disarmingly in her note, "You look at all the factors; you weigh them up and you do what is right." As an attempt to encapsulate the problems inherent in the exercise of judicial discretion in this highly discretionary field, I like and agree with that approach and have tried

to adhere to it. Anything more sophisticated risks falling back into the mire of judicial gloss again. However, helpful to practitioners and first instance judges those glosses may have been, they are just that and tend to end up, in the end, on the scrapheap of outdated judicial pronouncement. Of course, whether others would regard the outcome as right depends on one's perspective.

22. Miss Stone also invites me to think about compensation for the collapse of wife's accessories business which she says withered to nothing when the parties went to the Bahamas. I decline to do so both as a matter of principle in this case, for the reasons I have already said - I reject notions of sharing and also compensation - but also on the facts of this case. There is no doubt that the wife was just beginning to make a name for herself in the design world, but she had made not a penny out of it; on the contrary, it had cost her a considerable amount. Compensation is always a very tricky concept at the best of times. It always runs the risk of double-counting; in this case the argument really does not get off first base, in my judgment.

23. In section 18 of the Act, applying Section 25 of the Matrimonial Causes Act, is the list of ingredients to be included in the recipe, depending on their relevance to this set of facts. I shall not repeat those extremely well-known sections, engraved as they always are on the brain of every specialist family lawyer and judge.

24. Let me start, I hope logically, with the respective financial positions of the parties. Both sides have produced asset schedules setting out the up-to-date financial positions of the parties. There is really nothing between them on the figures.

The husband

25. The husband's wealth is put at £34 million. It is in properties, cash and expensive boats, cars and jewellery. It is all easily capable of liquidation and indeed approximately £16 million is in cash or its equivalent. Nothing more really needs to be said about his finances. He plainly has a prodigious earning capacity, which is how the fortune which is now available for distribution came to be made. He is not working at the moment but there is nothing really to stop him doing so if he chose to.

The wife

26. The wife's assets are said by her to be £5.77 million and, by the husband, to be £7 million. They are made up as follows. (1) The net proceeds of sale of the flat in Knightsbridge which, when sold, should produce £1.94 million. (2) The properties in the Country Y. The wife puts them at 2.56 million and the husband at 3.26 million. The difference represents the discounts applied to sale values because they are not vacant. (3) There are plots of land in Country Y valued at £700,000. (4) There is the balance of the sum owed to her by her brother, being £425,000 paid at the rate of $69,000 every two months, subject at present to deductions by her brother to reimburse him for legal fees which he is paying on the wife's behalf to her solicitors. (5) She has jewellery of £880,000 - £740,000 is said by the husband to have come from him.

27. Mr. Dyer says that I still have not been told the real story about the wife's expectations from her family's money. I agree with him that it is all very vague, especially given the enormity of the sums involved. Nothing ever seems to have been written down, or seems to be written down now. But I have already found both the wife and her brother to be basically truthful witnesses and I am in the end disposed to accept what they say. The wife has £425,000 to come, but also an insurance policy in the form of a generous brother if all else fails. Of the wife's assets, the net proceeds of the Knightsbridge flat of just under £2 million is agreed to be available for the wife's housing or other immediate needs at the moment.

28. Everything else belonging to the wife is capable of liquidation over time, but not easily. So far as the Country Y properties are concerned, the easiest way of the wife extracting money from them would be if she sold them to other members of the family. That is not such a fanciful idea as she has regular dealings with them. They are an attractively close-knit family who help each other out in times of need and, most importantly, they totally trust one another in matters of finance. In this respect I think therefore £7 million more nearly represents the wife's fortune, as she will be under no pressure to realise assets before they are available and has enough resources to avoid hasty sales.

29. She has no earning capacity, although she does have some real artistic flair which she was beginning to employ prior to the parties' departure for the Bahamas. At present, and for the purposes of this application, I regard her as having no separate earning capacity.

30. So far as the costs are concerned, both sides are agreed that I should deal with that separately after the judgment. They are high. The wife has incurred costs of £1,120,000 of which £862,000 has been paid, partly via the brother's loans. The husband's costs are £676,000, and they are mostly paid.

31. The standard of living is the next most significant factor in the determination. The parties had and have always had a glittering lifestyle, occupying smart properties in fashionable locations around the world. The cars, the yachts and the hotels have all been very expensive. That is the background against which the wife and the child are entitled to have their claim assessed.

32. The length of the marriage I dealt with in the first judgment. It was short; little more than four rather stormy years.

The question of needs

33. The central requirement in this, as in almost every case, is for a decent roof over the child and the mother's head. Much time has been spent examining what is available and at what price in the sort of areas in West London where the wife could live. In the end there is very little between the parties about the type of property which would be suitable - essentially four bedrooms with a garden. The difference between the parties is over the precise location. The wife would like to stay in the immediate vicinity of where her flat now is, that is to say SW3, and that would call for expenditure of £6 million plus. The husband says she could and should move further west or south because she has not lived in Knightsbridge for many years and the schools which the wife wishes to send the child to will be more convenient further down the King's Road, or indeed south of the river. He says a decent property can be bought in SW6, SW10 or SW11 fulfilling all the appropriate criteria for about £2 million plus.

34. In fact all the properties are little more than a mile apart at worst, but as this is London where properties alter in value by millions, even though they are only a few streets apart, much time has had to be spent examining them in detail.

35. I have decided, after looking at all the available properties and their locations, which were

very helpfully set out on a multi-coloured schedule produced by the wife, that a house in a rather less expensive part of Chelsea is appropriate. That will cost the wife about £4 million plus - say £4.25 million - just under half of which is available from the proceeds of sale of her present flat. I am not persuaded that she should have a second home for her use - at least not at the husband's expense after a marriage of this length and where it was not really part of their life together.

Income provision

36. The parties are miles apart on this part of the case. The wife has produced a budget running to some £476,000 per annum, plus £60,000 per annum for the child. That is a huge sum. The husband says it is inaccurate on its face and involves double-counting, and the inclusion of items at figures which are simply invented and bear no relation to their lifestyle, high though it was. Indeed Mr. Dyer, without any great difficulty, was able to undermine almost every figure on the schedule. In the end I think it was wildly high and of little real assistance in my calculations.

37. Looking at the schedules and the comments by counsel I think a figure of about £250,000 a year net for herself and the child is right as the multiplicand which needs to be achieved one way or another - although that is still on the high side. If the wife aspires to more she will have to look to her family one way or another. I am sure that her family will not leave her short of funds if they determine that this figure is lower than is reasonable.

38. Although I have in mind of course all the other section 25 factors, I do not think they call for individual further special mention at this calculation stage.

39. How should these identified needs be met and by whom? The husband says the housing should be on the basis of provision only whilst the child is being educated as if, as I say, this was a Schedule 1 claim. I simply do not follow the justification for that approach. The earlier findings I made certainly lead the court to ignoring modern UK post-White principles, but that does not, in my judgment, render the case a Schedule 1 case. I have not made findings akin to those in Radmacher. They are very much vaguer than that and their impact therefore is very much less significant or determinative.

40. In the light of the fact that (a) the parties were married and this is a divorce case (b) the husband's fortune (c) the wife's contribution as wife and mother and (d) the overwhelming desirability to achieve a clean break, any capital provision should be outright and in the form of a lump sum.

41. So far as the housing element of the claim is concerned, the right bracket is £2 million to £2.5 million for housing bearing in mind the proceeds of the wife's own flat.

42. What about income provison? In a case involving assets of a total of £40 million I consider that £50,000 per annum is the right figure for the child's support, including the costs of the nanny.

43. So £200,000 has to be provided from elsewhere. In this regard how should the remaining £5 million of the wife's mainly Country Y assets be treated in this calculation? Complete amortisation over time is not fair when this is almost all old family money, but equally over time and with familial help they can be better deployed and better invested to provide her with a reasonable rate of return. In my judgment, in this part of the calculation 3% net is fair to both sides. That is to say £150,000 per annum.

44. By this route there is a shortfall on the wife's needs of some £50,000 per annum there. On a Duxbury basis that would call for about a million pounds. Is a Duxbury approach a proper way to calculate the wife's needs, given all the circumstances? It could be considered very generous after a short marriage, but not so generous if one factors in that the wife is looking after the child throughout his minority. A multiplier of 10 is sometimes arguable in this situation. So it seems that the bracket for this part of the claim is between £500,000 and £1 million.

45. Accordingly, the overall bracket, aggregating both halves of the claim, is between £2.5 million and £3.5 million.

46. Taking all the factors into account as I do and doing the best I can to do what is right, as per Miss Stone's direction to me, I shall order the husband to pay the wife a lump sum of £3 million

plus maintenance for the child at £50,000 per annum.

47. Having heard the evidence about the necklace, which both sides claim as their own, I accept the wife's version. It must be returned to her within 28 days.

48. I shall order the child's periodical payments to be back-dated to the date of the commencement of this claim, with credit for all sums paid. I do require the sum for the child to be secured somehow as the husband's globe-trotting lifestyle would present too much of a moving target if, for any reason, the husband ceased to pay. There is already a trust fund of a value in excess of $1 million set up to benefit the child, and by appropriate adjustments security is achievable without recourse to the provision of further funds.

49. All the wife's files and boxes must be returned to her within 21 days. The question of costs and security I will deal with on a separate further occasion.

50. So it is that, after 12 days of hearings in the High Court, plus the interlocutory hearings, an order has been made which I hope pays proper regard to all the points which have been advocated so skilfully by counsel. That the hearings have taken so much time and expense is due to the interplay between the unusual factual background and the recent high level case law, which significantly encourages rather than discourages lengthy debate. That the parties have been able fully and fairly to have their cases aired and considered is beyond doubt. Whether it is really a proper use of precious High Court time when the system is under such intense pressure from more run of the mill cases is, however, in my judgment, open to question.