This Judgment was delivered in private, but the Judge hereby gives leave for it to be published.

Neutral Citation Number: [2026] CIGC (Fam) 14

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FAMILY DIVISION **CAUSE NO: FAM 258 OF 2024**

BETWEEN:	**AH**	**PETITIONER/CROSS RESPONDENT**
AND:	**LH**	**RESPONDENT/CROSS PETITIONER**

Appearances:	**The Petitioner and the Respondent in person**
Before:	**Hon. Mr. Justice Richard Williams**
Heard:	**8-9 September 2026**
Judgment Delivered:	**15 September 2026**

Financial provision - ancillary relief - division of assets

JUDGMENT

The Application

1. This is the hearing to determine ancillary relief proceedings between LH, the 53-year-old Respondent/Cross-Petitioner wife ("the wife"), and AH, the 56-year-old Petitioner/Cross-Respondent husband ("the husband"). The wife is a Caymanian National, and the husband has Caymanian status, and both parties reside in the Cayman Islands.

2. The parties have one female child of the marriage. Their daughter is an adult aged 25 who is employed as a teacher in the US. There have been no child maintenance orders applied for at any stage of these matrimonial proceedings. Although she was still in full-time education at the time, following her 21st birthday in August 2022, neither parent has been legally responsible to maintain her pursuant to s.22 in the Matrimonial Causes Act (2026 Revision) ("the Act"). Upon or since

reaching 18 the daughter has not made any application for financial provision pursuant to s.2 Schedule 1 Children Act (2012 Revision).

3. I hope that the parties will not be offended if I hereafter refer to them, for convenience, as the wife and the husband.

The background until separation in July 2020

4. The parties were married on 21 November 1998. The parties separated on or about July 2020.[1] It was therefore a long marriage of just under 22 years. The wife stated that the husband voluntarily left the Former Matrimonial Home ("the FMH") in July 2020 and at no time did she *"ask, encourage, or require him to leave"*. She said that the husband no longer wished to remain in the home because he chose to pursue an extramarital relationship with the person he resides with.[2] The husband stated that he did not voluntarily vacate the FMH but left at the insistence of the wife *"following escalating conflict, hostility, and increasingly toxic domestic environment, which made continued habitation untenable"* and he did so *"to de-escalate conflict and preserve peace, not to avoid responsibility"*. He stated that the wife had told him on *"countless occasions"* from 2018 that he should leave and was *"adamant"* that he should do so. The husband said that the wife told him that as soon as their daughter started at university he would have to *"get out"* of the FMH. The wife stated that any strain on the relationship was caused by the husband's repeated infidelity and not by any hostility on her part. The husband agreed that he had behaved in that manner during the marriage. However, he said he had not been in a sexual relationship with another woman in the twelve months before the July 2020 separation and that he did not start his relationship with his current partner until September 2020.

5. It is quite clear that the marriage was very strained at the time. When she was cross-examining the husband, the wife conceded that she told him that if he could not be faithful he should *"do what he needed to do"*. The wife then clarified that what she meant by that was that he should leave the home. From their evidence and their demeanour throughout these proceedings, I am satisfied that the nature of their interactions was such that they could not have continued living together in the same household. I find that both parties exaggerated what the other said about leaving the home,

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[1] The husband said the parties separated in or around 2020.

[2] The husband says that he began to cohabit with his partner in or around 2023 more due to an increase in rental rates. He says that his partner has her own financial responsibilities as a single mother of two children and is not in a position to assist him financially. His partner owns her own three-bedroom property where she, the husband and her two children reside.

but I am clear that both parties were at the time of the separation content and relieved that he should leave and that they need not live together anymore. This is not a case where one party deserted the other, it was, on the evidence before me, an inevitable and overdue 'parting of the ways.'

The Procedural background

6. The husband filed the Divorce Petition on 14 October 2024. The wife filed the Cross-Petition on 12 November 2024. The First Appearance Mention Hearing came on before me on 30 January 2025. The husband recognised that the wife had not given the consent required for the ground pleaded in his Petition which was based on separation of over two years, but under five years. At that hearing the husband agreed that he had not filed an Acknowledgement or Answer to the Cross-Petition and he indicated that he was not defending it. The wife, to date, has not filed an Application to Prove the Cross-Petition. The parties were directed to attend mediation.

7. On 12 June 2025 the Mediator filed a final Mediation Report in which she recorded that the case was partially settled and that a consent order was to be circulated by the mediator. On 21 July 2025 a draft "Partial Settlement" Ancillary Relief Consent Order was submitted by the parties for my approval with accompanying Statement of Information for a Consent Order Form. That draft order provided:

> ***"UPON*** *the parties having attended mediation and the parties hereto consenting to an order in the following terms and so indicating by their signatures hereto****;***
>
> ***AND UPON*** *the Parties agreeing that this Order represents the full and final settlement of all ancillary issues arising out of their marriage* ***with the exception of each party's equitable share in the former matrimonial home (inclusive of debts relating to the mortgage and renovations) which the parties wish the court to decide****, and the parties otherwise hereby release all rights, claims or interests, whether legal or equitable, which either of them may have against each other in respect of any other assets or property of any kind whatsoever which either party may have now or in the future, it being intended that the parties should hereby achieve a "clean break" in respect of their financial affairs; and that there are no outstanding ancillaries, nor claims by either party under the Matrimonial Causes Act (2005 Revision) or the Married Women's Property Act (1997 Revision);*
>
> ***AND UPON*** *it being acknowledged the Parties have one adult child of the marriage, namely JAEDYN HANNA, who no orders will be made in relation to;*
>
> ***AND UPON*** *the Parties agreeing sufficient financial disclosure has been made to allow the parties to make informed decisions;*
>
> ***AND UPON*** *each party confirming that sufficient disclosure has been made and received to allow each of them to make the informed decision to ask the Court to approve the below terms, pursuant to the requirements of Practice Direction No.1 of 2013;*

IT IS HEREBY ORDERED BY CONSENT:

Matrimonial Assets/Liabilities

1. The parties own the real property located at 24 Longmead Close, which served as the former matrimonial home and is more properly described as Registration Section SPOTTS, Block 24E, Parcel 252, and is hereinafter referred to as "the ***FMH****". The Petitioner and Responded has each had the FMH valued by separate valuers and the parties agree the FMH is valued at CI$525,000, subject to a mortgage in the names of both parties.*

2. Save for the costs associated with the mortgage and renovations of the FMH for which the Petitioner may bear responsibility towards upon judicial determination, the parties agree that there are no other matrimonial debts to divide.

3. The parties agree that their shares in CUC shall be transferred to their daughter Jaedyn Hanna.

4. Except as noted herein, each party shall retain the benefit of his/her respective pension and may remove the other as beneficiary of their respective pension plans and/or life insurance policies and shall be able to name such beneficiaries thereto as he or she may choose upon the final determination of the divorce proceedings and the divorce decree being granted.

5. All assets and liabilities not specifically dealt with by the terms of this Order shall remain the property and responsibility of the party in whose name it is held or in whose possession they are as at the date of the Order."

Miscellaneous

6. Each party shall bear their costs.

7. Liberty to apply."

8. Upon reviewing the draft consent order, it was evident that what the parties were in agreement about were rather peripheral orders and the core dispute remained. That dispute was about the substantial matrimonial asset, namely the FMH. The wider orders could only be properly approved after the core issue was determined, and if I had done that such an approach would not be consistent with the Court's duty under s.19 in the Act. The parties were informed that I would not be approving the draft consent partial settlement order and that I required them to attend before me.

9. The parties attended a mention hearing on 31 October 2025. Despite the terms at paragraph 1 in the partial settlement order, it was apparent that there was a dispute about the valuation of the property and the equity figure. The Court recommended to the parties that they instruct and pay for a joint valuation of the FMH. The wife indicated that she wished to retain the FMH and buy out the

husband's interest. The wife contended that the husband was not entitled to an interest of 50% of the equity figure in the FMH. In light of the wife's contentions being made about the FMH, after the hearing the Court provided each party with a copy of this Court's Judgment in ***Walton v Walton*** [2025] CIGC (Fam) 10. Directions were given about the filing of affidavit evidence and a mention hearing was fixed for 19 December 2025.

10. On 28 November 2025 the wife filed an affidavit sworn on the same date. On 28 November 2025 the husband also filed an affidavit sworn on the same date. Both parties exhibited to the affidavit a valuation report from DDL dated 27 November 2025 which stated that the market value of the property was CI$525,000.

11. When the parties came before me on 19 December 2025, they were both given leave to file further affidavits in reply, if so advised, by or on 20 February 2026. They were directed to file a Listing Form for a two-day hearing. The husband filed his affidavit dated 16 January 2026 on the same date. The wife filed her affidavit sworn on 20 February 2026 on the same date.

12. The wife filed a Listing Form on 16 January 2026 which only contained her dates to avoid. On 20 February 2026 the parties submitted a Listing Form containing both parties' dates to avoid. The Listing Officer contacted me on 3 March 2026. On 5 March 2026, I requested a copy of the file. I indicated that I required the parties' dates to avoid for June and July 2026 as well. On 7 May 2026, those dates to avoid were provided to the Listing Officer. On 12 May 2026, those dates were provided to me. Because of the delay in the provision of those dates, it was unlikely that a hearing could be fixed in June 2026 and Julyn 2026. Therefore, on 13 May 2026, the parties were requested to provide their dates for also August and September. On 19 May 2026, the dates to avoid were provided. On 27 May 2026, I directed that, due to the delays, the matter could be heard during the Grand Court Summer Vacation and that it was fixed for 8-9 September 2026.

The hearing

13. The ancillary relief hearing commenced on 8 September 2026. Although the time estimate was for two days, the hearing concluded on the first day. This is my Reserved Written Judgment given after consideration of the parties' oral and filed written evidence.

The areas of agreement and dispute and the Court's analysis

14. The parties agree that this is a clean-break case. Both parties agree that their shares in CUC shall be transferred to their daughter. Both parties agree that their respective pensions and life insurance policies shall remain with the relevant party and their named beneficiaries. Therefore, the only issue is what is the percentage of each party's interest in the FMH.

The law and the relevant general principles applied in ancillary relief cases

15. The law pertaining to the division of assets is governed by s.19 of the Act. Section 19 must be read in conjunction with s.21 of the Act. In this case where no spousal maintenance is sought and where there is no minor child, the relevant order that the Court is being asked to consider in this case at the time of pronouncing a decree in this Judgment relates to the disposition of matrimonial property;[3]

16. Sections 19 and 21 of the Act give the Court a wide discretion when it comes to financial provision and any awards made to the parties. The Courts in the Cayman Islands, in deciding whether to exercise their powers under s.21 and, if so, in what manner, when considering what is fair in all the circumstances of the case, traditionally have had regard not only to the matters set out in s.19, but may also be guided by the relevant factors raised in s.25(2) of the Matrimonial Causes Act (1973) in England and Wales:[4]

> *"(a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;*
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> *(b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;*
>
> *(c) the standard of living enjoyed by the family before the breakdown of the marriage;*
>
> *(d) the age of each party to the marriage and the duration of the marriage;*
>
> *(e) any physical or mental disability of either of the parties to the marriage;*

[3] Section 21(b) the Act.
[4] ***Doak v Doak and Riley*** [2002] CILR 224, [17], [21], [22], ***Wood v Wood*** [2009] CILR 255, [12] as commented upon by Sir John Chadwick P. in ***McTaggart v McTaggart*** (2011) 2 CILR 366, [39].

(f) the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;

(g) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;

(h) in the case of proceedings for divorce or nullity of marriage, the value to each of the parties to the marriage of any benefit which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring."

17. In relation to the present matter, I note that the wife makes contentions about what she regards as conduct of the husband. She seems to be submitting that the fact that she paid the mortgage post separation and a majority of education expenses amount to conduct that "*should weigh significantly against any substantial claim to the home's equity*"[5] . Of course, that falls far short of the ***Wachtel v Wachtel*** [1973] Fam 72 test of "*obvious and gross."* In light of my finding that the husband's leaving the home was not desertion but a natural consequence of the nature of the parties' problematic marital situation at the time, her assertion that the husband's "*five-year absence*" is not factually correct and, in any event, does not amount to obvious and gross conduct.

18. It is helpful to again set out the authoritative summary of the general law to be applied which was set out by Peel J in ***WC v HC (Financial Remedies Agreements) (Rev 1)*** [2022] 2 FLR 1100 at [21]:

"i. As a matter of practice, the court will usually embark on a two-stage exercise, (i) computation and (ii) distribution, Charman v Charman.

ii. The objective of the court is to achieve an outcome which ought to be 'as fair as is possible in all the circumstances', per Lord Nicholls of Birkenhead in White v White.

iii. There is no place for discrimination between husband and wife and their respective roles, White v White.

iv. In an evaluation of fairness, the court is required to have regard to the s 25 criteria, first consideration being given to any child of the family.

v. Section 25A of the Matrimonial Causes Act 1973 (MCA 1973) is a powerful encouragement towards a clean break, as explained by Baroness Hale of Richmond in Miller v Miller, McFarlane v McFarlane.

[5] Paragraph 40 in the wife's Affidavit sworn on 28 November 2025.

vi. The three essential principles at play are needs, compensation and sharing: Miller; McFarlane.

vii. In practice, compensation is a very rare creature indeed.

viii. Where the result suggested by the needs principle is an award greater than the result suggested by the sharing principle, the former shall in principle prevail Charman v Charman (No 4).

ix. In the vast majority of cases the inquiry will begin and end with the parties' needs. It is only in those cases where there is a surplus of assets over needs that the sharing principle is engaged.

x. Pursuant to the sharing principle, (i) the parties ordinarily are entitled to an equal division of the marital assets and (ii) non-marital assets are ordinarily to be retained by the party to whom they belong absent good reason to the contrary: Scatliffe v Scatliffe. In practice, needs will generally be the only justification for a spouse pursuing a claim against non-marital assets.

xi. The evaluation by the court of the demarcation between marital and non-marital assets is not always easy. It must be carried out with the degree of particularity or generality appropriate in each case: Hart v Hart. Usually, non-marital wealth has one or more of three origins, namely (i) property brought into the marriage by one or other party, (ii) property generated by one or other party after separation (for example by significant earnings) and/or (iii) inheritances or gifts received by one or other party. Difficult questions can arise as to whether and to what extent property which starts out as non-marital acquires a marital character requiring it to be divided under the sharing principle.

xii. It will all depend on the circumstances, and the court will look at when the property was acquired, how it has been used, whether it has been mingled with the family finances and what the parties intended.

xiii. Needs are an elastic concept. They cannot be looked at in isolation."

19. Further, Mostyn J in ***Clarke v Clarke*** [2023] 2 FLR 1, endorsed Peel J's summary as an *"impeccable synopsis"* and added one additional element: that section 25A, the clean break provision, must be diligently applied.

20. Mr. Justice Peel's above guidance is consistent with the approach that had already been adopted in our Courts, as seen by the principles outlined by the Court of Appeal in ***McTaggart v McTaggart***

[2011 2 CILR 366] ***("McTaggart")*** and in ***Valerie Ayala Gordon v Jefferson Raymond Watler*** CICA (Civil) 13/2014 ***("Gordon")***. I need not set out that detail again herein but simply reiterate the observation of Sir John Chadwick, the President, that:

> *"The ultimate objective is to give each party an equal start on the road to independent living."*

21. I have regard to all the general principles outlined above, recognising that they highlight that the Court is charged with dividing the assets in a fair and equitable manner, whilst trying to see if there can be a clean break.

The approach to be taken in relation to the FMH

22. I remind myself of the well-known House of Lords decisions in ***Miller v Miller: McFarlane v McFarlane*** [2004] UKHL 24 ("***Miller***") and in ***White v White*** [2000] UKHL 54 *("**White**")*. In ***Miller*** Lord Nicholls stated that the matrimonial home had a "*central place*" in the marriage and should normally be treated as a matrimonial asset. When commenting upon ***White*** in ***Politowicz v Kruger*** [2025] CIGC (Fam) 3 ("***Politowicz***"), I stated at paragraphs 63-64:

> *"63. The case confirmed that the overriding goal of the Court was to achieve fairness, and the Court articulated a view of fairness which took equality and non-discrimination as starting points. This case was when the concept of equal sharing became the accepted starting point irrespective of one party's role as the bread winner and the other party's role as the homemaker. The Court retains a wide discretion as to what order it should make whilst still having regard to the principles and statutory requirements outlined by me in paragraphs 57-62 above. Lord Nicholls in his leading judgment in **White,** said that although the legislation did not explicitly state it, the objective of the Court when exercising its powers is to achieve a fair outcome. With that in mind Lord Nicholls stated at paragraph 24:*
>
> > *"…there is one principle of universal application which can be stated with confidence. In seeking to achieve a fair outcome, there is no place for discrimination between husband and wife and their respective roles. Typically, a husband and wife share the activities of earning money, running their home and caring for their children. Traditionally, the husband earned the money, and the wife looked after the home and the children. This traditional division of labour is no longer the order of the day. Frequently both parents work. Sometimes it is the wife who is the money-earner, and the husband runs the home and cares for the children during the day. But whatever the division of labour chosen by the husband and wife, or forced upon them by circumstances, fairness requires that this should*

not prejudice or advantage either party when considering paragraph (f)[6] *, relating to the parties' contributions … If, in their different spheres, each contributed equally to the family, then in principle it matters not which of them earned the money and built up the assets. There should be no bias in favour of the money-earner and against the home-maker and the child-carer."*

64. *Lord Nicholls then added at paragraph 25*:

"A practical consideration follows from this. Sometimes, having carried out the statutory exercise, the judge's conclusion involves a more or less equal division of the available assets. More often, this is not so. More often, having looked at all the circumstances, the judge's decision means that one party will receive a bigger share than the other. Before reaching a firm conclusion and making an order along these lines, a judge would always be well advised to check his tentative views against the yardstick of equality of division. As a general guide, equality should be departed from only if, and to the extent that, there is good reason for doing so."[7]

23. In ***Miller****,* a case decided after the principle of the sharing of matrimonial assets had been established in ***White***, Lord Nicholls stated at paragraph 16 that:

"…This 'equal sharing' principle to rise in the basic concept of equality permeating a marriage as understood today. Marriage, it is often said, is a partnership of equals… The parties commit themselves to sharing their lives. They live and work together. When their partnership ends, each is entitled to an equal share of the assets of the partnership, unless there is a good reason to the contrary. Fairness requires no less. But I emphasise the qualifying phrase: 'unless there is good reason to the contrary'. The yardstick of equality is to be applied as an aid, not a rule."

24. In ***S v S (Non-Matrimonial Property: Conduct)*** [2006] EWHC 2793 (Fam), [2007] 1 FLR 1496*,* ("***S v S"***) Burton J said, at paragraph 31, that the former matrimonial home should be treated as a matrimonial property whatever the source and duration of the marriage. He also reiterated at *paragraph 24* that there was no presumption of equality and, with reference to ***White***, he stated:

"It is firmly said by Lord Nicholls in ***White*** *that there is no presumption of equal division which indeed would "be an impermissible judicial gloss on the statutory provision" (at 990), even if such presumption were rebuttable, and "a presumption of equal division would go beyond the permissible bounds of interpretation of s25". Nevertheless - and although more often than not there would not be a more or less equal division of the available assets, and the judge's decision would mean "one party will receive a bigger share than the other" (989) – "a judge would always be well advised to check his tentative*

[6] Of s.25(2) Matrimonial Causes Act 1973.
[7] My emphasis by underlining.

views against the yardstick of equality of division" and "as a general guide equality should be departed from only if, and to the extent that, there is good reason for doing so" [all at 989]. Lord Cooke at 999 also stated, in agreement with Lord Nicholls, that "as a general guide, equality should be departed from only if, and to the extent that, there is good reason for doing so."

25. Mostyn J stated in ***JL v SL*** [2015] EWHC 360:

"Matrimonial property is the property which the parties have built up by their joint <u>(but inevitably different)</u>[33] efforts during the span of their partnership. It should be divided equally. This principle is reflected in statutory systems in other jurisdictions. It resonates with moral and philosophical values. It promotes equality and banishes discrimination."

26. Our Court of Appeal has adopted a similar approach on the issue of equality of division. In ***W v W*** [2009 CILR 255], Sir John Chadwick P. reiterated the importance of the principles set out in (i) ***Wight v Wight*** 2010 (1) CILR 60 ("***Wight***"), (ii) ***White*** and (iii) ***Miller***. Referring to Forte J.A.'s ruling in ***Wight,***[8] the President, at paragraph 12, stated that the Court should construe s.19 of the Act:

"On the basis of the new approach to the institution of marriage and the fact that it is a union of partners.…Each therefore would be entitled to equal share of the <u>assets acquired in the marriage,</u> unless there is a good reason to depart from that principle."

27. Chadwick P in ***McTaggart*** acknowledged that there is no requirement under the Act for there to be an equal division of the assets and that the Court, when exercising its duty imposed under s.19, may make an order for an unequal division of the property. However, with reference to ***White***, the President noted at *paragraph 37* that:

"As a general guide, equality should be departed from only if, and to the extent that, there is good reason for doing so."

28. In ***Ruggerri Ray Walton v Jinky Ann Walton (Nee Gazzinggan)*** [2025] CIGC (Fam) 10 ("***Walton***"), I considered the law concerning a departure from the principle of equality in relation to a FMH. I analysed the ***Politowicz*** Judgment in which I set out the principles contained in ***White*** as well as conducting a review of the decisions made in a number

[8] In particular at paragraph 58 in ***Wight***.

of cases dealing with issues surrounding a possible departure from equality and in what type of circumstances that may occur. In ***Walton*** I observed that the Court's objective in cases in which they decide that there should be a departure seems to be to achieve fairness between the parties, whilst accepting that those cases require there to be *"very good and clear reasons"* to *"deviate from an equal division of assets"*. In ***Walton,*** when reminding myself that I have discretion to depart from equal sharing, I set out the below comment made by me at paragraph 87 in ***Politowicz***:

> *"When I make that order I am conscious that all the cases referred to and relied upon by the husband illustrate that the Court can, in appropriate circumstances, depart from an equal division of matrimonial property, including of a former matrimonial home, where fairness requires it. I acknowledge that I have that discretion, and I have carefully considered whether this is an appropriate case for me to exercise that discretion. The circumstances when fairness requires that approach have been referred to by McFarlane LJ in **Sharp v Sharp** [2017] EWCA Civ 408 as the "fringe of cases may lie outside the equal sharing principle", a case in which he recognised that the sharing principle is still good law for the majority of cases, but that the principle of a 50/50 split will not automatically be applied in every case. The judgments relied upon by the husband are based on different circumstance to those present in the matter before me, especially relating to the source, and they fall within the 'fringe of cases' envisaged by McFarlane LJ. Whilst the Courts in those cases determined that a departure from the principle of equal sharing was justified so as to achieve fairness, it is important to note that this will only apply in a relatively small number of cases and in circumstances where, both parties' needs are fairly met."*

29. In ***Walton*** I conducted a detailed review of ***Standish v Standish*** [2025] UKSC 26 and some of the cases reviewed by the Supreme Court in ***Standish,*** especially concerning the sharing principle and what constitutes a fair division of assets. The cases reviewed are factually not on point in the present matter. However, as highlighted at paragraph 72 in ***Walton***, the Supreme Court in ***Standish*** emphasised that when considering what orders to make the court must strive to reach a fair outcome and it set out principles that are relevant to the sharing principle. Two of those principles are that: (i) the sharing principle applies only to matrimonial property (which the FMH in the matter before me clearly is); and (ii) although there may be departures from it, the starting point is that the matrimonial property should normally be shared on an equal basis. The other principles listed in that paragraph in ***Standish*** are not relevant to this case.

30. I have regard to the above principles when I review each party's positions about the percentage of the equity in the FMH and when I determine whether the facts support a conclusion that the present case is one of the fringe of cases that lie outside the equal sharing principle.

The FMH

31. The husband submits that there should be no departure from the equality approach and that he has a 50% interest in the property. He contends that the property should ordinarily be shared equally unless fairness requires otherwise. He is content for the wife to buy out his 50% interest in the net equity[9], but if she is unable to do so then the property should be sold and the net proceeds of sale divided equally. Although his present housing needs are currently being met due to the fact that he is living in a home owned by his cohabitee (in which he has no legal interest), he states that relationships can be unstable and that he would require 50% of the net equity from the FMH to enable him to buy a piece of land to build upon.

32. The wife is very clear that she wishes to remain in the FMH for which she has paid the mortgage and running costs for (save for home insurance which was shared equally) and which she had the benefit of exclusively occupying following the parties' separation in 2020. The wife's proposal is that she buy out the husband's interest in the property. She argues that there should not be an unequal division of the equity value in the property because of: (i) her paying all of the mortgage payments post separation; (ii) her paying 50% of the home insurance[10] payments post separation; (iii) her paying utility bills post separation; (iv) her paying all household expenses on the FMH post separation; and (v) the larger financial contribution that she has made towards the daughter's education costs (tuition and wider expenses). The wife contends that it would be inequitable and unjust for the husband to derive benefit from the equity in the property because she says that he as he has made no payments to its upkeep for five years.

33. The wife also contends that the equity figure for division should be reduced due to what she incorrectly terms as being an agreement by the husband to deduct *"his share of the mortgage"* paid by her and the renovations. She contends that a figure of $77,500 reimbursing 50% of the total mortgage payments made by her should be deducted and that additionally a figure of $6,565 reimbursing 50% of the renovations she paid for should be deducted. The wife incorrectly states at

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[9] See paragraph 35 concerning the equity in the FMH.
[10] The 50% figure being only conceded during the hearing contrary to the content in her affidavit where she sought a 60/40% division figure partly based on her incorrect assertion that she had paid 100% of the home insurance payments.

paragraph 20 in her Affidavit sworn on 28 November 2025 that the draft partial settlement submitted to the court *"outlined"* that he agreed to deduct half of all costs associated with the mortgage and renovations of the former matrimonial home. In fact, the unapproved Partial Settlement Order contained no such agreement. It contained a provision at paragraph 2 that:

> *"save for the costs associated with the mortgage and renovations of the FMH for which the Petitioner may bear responsibility towards upon judicial determination, the parties agree that there are no other matrimonial debts to divide."*

That paragraph must be read in context of the preamble which stated:

> *"**AND UPON** the Parties agreeing that this Order represents the full and final settlement of all ancillary issues arising out of their marriage with the exception of each party's equitable share in the former matrimonial home (inclusive of debts relating to the mortgage and renovations) which the parties wish to decide,…."*

It is clear that the issues concerning the approach to be taken to mortgage and renovations when determining each party's equitable share was still a matter requiring judicial determination. It became evident at the hearing, that what the wife was doing when indicating that there was an agreement was rehearsing an offer that the husband made during the privileged to and fro negotiations during mediation. That offer was withdrawn prior to the partial settlement order being drafted because it was made on the basis that the issue about the equity and its division would be resolved. As the wife is seeking further deductions over and above the mortgage and renovation figures, there was no final ancillary relief order reached, and therefore the offer that had been made was no longer 'on the table.' I accept that the wife is a litigant in person, but she has regrettably introduced those negotiations and misrepresented the offer as an agreement that should be enforced. Accordingly, I reject the wife's contention that, automatically and as a starting point when calculating the equity, there should be deductions for mortgage and renovations.

34. The FMH is a four-bedroom property occupied solely by the wife as the parties' adult daughter is now living and working in the US. Although not agreed, I am satisfied that the needs of the wife do not require her to live in a four-bedroom property. The parties have agreed the $525,000 valuation for the FMH which was provided by the joint valuer. I note that the wife seeks credit for the initial 100% borrowing facility of $285,000 which had been lent to the parties by a private individual. The wife says that the person who lent the money was her friend, the husband says that she was a mutual friend. The wife says that without the loan from the friend they would not have

been able to purchase the home, and because the person was her friend, she contends that the friendship is a factor that the Court should take into account when considering whether to provide her with a greater share in the equity. I do not agree with that submission, and I am satisfied that this source of the loan in this case is irrelevant when determining the division of the equity. After the loan was put in place the parties equally contributed to the repayments and the other household expenses. Also, when the parties decided to move the borrowing from that individual to CIBC they did so because the lending from the individual was at a more punitive 10% interest rate, so the restructuring of the loan with an established bank was a sensible joint decision.

35. A $260,000 joint mortgage was taken out with CIBC. Monthly repayments on that mortgage are currently $2,455.79 with the 6.75% interest rate. The monthly repayment figure is far below what it would cost to rent a property. The agreed present outstanding mortgage balance is $180,466.76. Therefore, the agreed equity in the FMH is $344,533.24.

36. During the marriage the parties equally contributed to the household expenses, including the mortgage and insurance. This was the arrangement although the wife had a higher salary. Since the separation, the wife has remained living in the FMH. The wife wrongly stated: (i) at paragraph 17 in her Affidavit sworn on 28 November 2025 that since the husband's departure he has:

> *"made **no contributions**[11] toward the mortgage payments, utilities, maintenance, or any other household expenses relating to the said property"*[12]; and (ii) at paragraph 41 in the same affidavit that she had *"borne **all**[13] mortgage instalments, utility payments, maintenance, insurance,[14] and renovation expenses since the father left the premises."*

It was uncontroversial that the wife had taken on the responsibility for paying all the outgoings on the FMH save for the insurance. During the hearing the wife had to concede: (i) that she was wrong when she stated in her written evidence that only she had made payments towards the home insurance; and (ii) that in fact the husband had been paying 50% of those insurance payments since the date of separation. The arrangement concerning the insurance shows that there must have been some discussion about the financial arrangements in relation to the home.

[11] Emphasis by bolding by the wife in her Affidavit.
[12] My emphasis by underlining.
[13] Emphasis by bolding by the wife in her Affidavit.
[14] My emphasis by underlining.

37. At the time of the separation the husband was (and remains) employed as a police officer. The wife was working at a law firm where she remains as a Compliance Officer. Although there was no verifying evidence, thew wife said that her net salary was $4,329 per month. The wife acknowledged that at the time of separation she had the greater salary and, although she said that she has never known the level of the husband's salary, she said that her income was possibly $1,500 per month more than his. The wife informed the Court of the mortgage payments at the time of separation were in the region of $2,300. Even in 2020 the wife would have had to pay substantially more than that amount to rent a four-bedroom property. The husband moved out to a much smaller property, namely a one-bedroom apartment which he rented for $1,500 per month. Although he had been in a relationship with his partner since September 2020, they did not start to cohabit in her three-bedroom home with her two children until 2023.

38. The husband understandably said that, save for his 50% payments towards the home insurance, he could not financially contribute to expenses relating to the FMH as he had to pay rent and his own living expenses. Meanwhile, the wife had the benefit of remaining in the substantial four-bedroom property paying a mortgage which, even including the payments towards 50% of the property insurance would be far less than she would have had to pay in the rental market for a similar property. It is clear that he had always wanted to remain in the property, and she has had the benefit of it for over six years without paying any occupational rent. No occupational rent has ever been sought by the husband and that is likely because the wife was commendably covering the mortgage payments as and when they fell due.

39. I acknowledge that when parties separate, they may market the property for sale as long as they have an agreement about the division of the proceeds of sale. If they chose to do that one party would normally remain in occupation of the property because, as with this case, the parties do not wish to continue to live under the same roof. This means that one party will enjoy the benefit of the property, whilst the other does not. That situation is usually compensated for by the occupying party paying the reasonable mortgage and other household outgoings, as long as they have the income to do so. In some cases, a party feels compelled to stay in the home although they don't really want to stay there whilst the other party leaves for rented accommodation. That is not the position here, because as I mentioned it is evident that the wife has always wanted to retain the home and not move out. In some cases, occupational rent is a legal mechanism that is used in circumstances where one party remains in the home and the other departs. It is a way of compensating the non-occupying party for other party's exclusive use of property. The granting of

occupational rent is a discretionary remedy calculated at around 50% of the market rent for the property. Usually, the property must be in a rentable condition, the non-occupying party must be incurring rental costs, there are only reasonable outgoings on the property or the non-occupying party's covering at least half of the property outgoings and the occupying parties delaying the division of the property, for example not accepting reasonable offers of purchase. No occupational rent has ever been sought by the husband and that is likely because the wife was commendably covering the mortgage payments as and when they fell due. If occupational rent had been applied for in this case, I would not have ordered it in circumstances where the wife was paying the mortgage and half of the house insurance.

40. I note that in her Affidavit sworn on 28 November 2025, the wife contends that the FMH would have been foreclosed on if she had not paid the entire mortgage on her own and that there would be nothing to divide today. Although that is an accurate statement, it does not take into account that the wife has always wished to remain in the home and not sell it. Her submission would have had some force if she was submitting that she was forced to stay in the home against her will, preferring to live elsewhere, and only stayed so that the mortgage could be paid. If she had wished to leave the property, the parties would have been expected to promptly have marketed the property for sale and have negotiations about how the household expenses would be met in the period prior to sale. As I mentioned, those were not the circumstances in this case. The wife clearly wished to remain in the property and as a consequence she made mortgage payments which were substantially less than she would have had to pay for rent for a similar sized property. Accordingly, the foreclosure argument raised by her is not one that has force in the circumstances of this case.

41. I find that the above circumstances relating directly to the FMH do not, in themselves, justify a departure from the normal approach of equality in division of the net equity in the FMH. I think this, with one exception and that relates to renovations that the wife has carried out on the property. Those are set out at exhibit LH1 in her Affidavit sworn on 28 November 2025. The renovations were carried out between June 2020 and April 2025 and totalled $13,130. The renovations seem reasonable, as do the figures quoted. Having regard to them I do not agree with the husband that the court should not rely on those figures in the absence of verifying evidence. Those renovations and maintenance have enhanced or retained the value of the property and have enabled the property to have the value assessed by the joint valuer. Accordingly, I am satisfied that when it comes to calculating the division of the FMH that there should be a credit to the wife for a figure amounting to 50% of the cost of the renovations, namely $6,565.

The Costs of the daughter's education

42. As mentioned above, the wife highlights the contributions that she has made to the education of the parties' daughter when compared to the husband's and submits that this is a reason why there should not be an equal split. The first period of education that she relies upon is when the daughter attended the sixth form at a private school in Grand Cayman to study for her A-levels. The daughter completed her high school education at the school in the summer of 2019. Both parties were in agreement that she should attend a high school especially as she was awarded a government scholarship to cover the tuition. Unfortunately, the daughter failed to maintain her grades to the required level to enable the scholarship to be extended to her second and final year at the school. As a consequence, the wife paid the tuition and ancillary education costs for the daughter to attend and complete a second year at the school. It is agreed that, at that time, the parents were equally contributing to the household expenses. It is agreed that, at that time, the wife had a far greater income than the husband. The parents do not agree on the amount, the wife suggests that he earned approximately $1500 per month more than the husband, but he suggested that she was earning 2 to 3 times his salary. If I accept the wife's evidence, it would be quite understandable that she, as the higher earner, would pay for the school fees if the husband was equally contributing to the household expenses. Although the figures for the school fees were not produced by either party, I may take judicial notice that the fees for the year paid monthly would, at that time, be around the $1,500 per month[15] for which the wife says was the difference between the parents' income. Accordingly, I am satisfied that the financial arrangements put in place for the parents for the then child to attend school were what one would ordinarily expect in the circumstances and the fact that the wife paid the school fees for the last year at that school does not amount to a contribution requiring a departure from equality in relation to the division of the FMH.

43. The next stage of the daughter's education which the wife relies upon her attendance at university/college in the USA from the Fall of 2019 to May 2023. It is important to note that at the outset of her third year at the University in August 2022 the daughter reached her 21st birthday. This is significant because under the Act, unless a child is under a disability of such a nature as to preclude it from maintaining itself independently, there is no jurisdiction either parent to apply for and obtain periodic payments for the benefit of a child of the marriage. Section 22(1) of the Act provides that such payments can be extended beyond the age of 16 so long as the child is receiving education and is under the age of 21 years. The thinking behind this provision appears to be that a

[15] The Judge had a daughter attending the same school in or around 2018.

child is entitled to assistance up to the age of 21 if they are in education, but the expectation is that thereafter they should be financially independent of their parents.

44. The advent of the Children Act (2012 Revision) introduced a ‘child turning into adulthood provision’ which enabled a person, in certain circumstances, to be an applicant for financial provision without a 21st birthday cut-off date. Pursuant to s.2(1) and (2) of Schedule 1 in the Children Act (2012 Revision) a person who has reached the age of 18 who is receiving instruction at an educational establishment may apply for an order requiring either or both of that child’s parents to pay periodical payments or a lump sum. The daughter in this case could have made such an application during her time at the university because immediately before she reached her 16th birthday there was no periodical payment order in force in respect of her.[16] When the daughter started at university in the Fall of 2019 she would have just had her 18th birthday, despite that she could not have successfully applied for such an order until July 2020[17] as s.2(4) of Schedule 1 in the Act does not permit an order being made when a person’s parents are living with each other in the same household.

45. In these proceedings, no application was made by the wife for maintenance under the Act and no application was made by the daughter under the Children Act. In previous judgments this Court has found that education/school/university orders made under the Act are to be regarded as being a type of child maintenance order. Although no applications have been made, what the wife seems to now be seeking by contending that the husband should pay 50% of all education expenses that she incurred is arguably akin to a retrospective child maintenance order covering a period of over five years.

46. In relation to the undergraduate university attendance, the Court was informed that the daughter was granted a government scholarship of CI$30,000 per year. The wife was unable to give the Court a firm figure for the tuition and boarding fees, although she kept changing the amount, she appeared to finally arrive at the figure of US$55,000 per annum for each of the four years’ attendance. She noted that the first two years the fees included tuition and boarding and that for the last two years the amount would have reduced although the daughter would have lived in private housing at a cost of around US$800 per month. The evidence shows that both parents agreed that she should attend that university. With that in mind, to supplement the government scholarship, the

[16] Section 2 (3) Children Act.
[17] July 2020 is the date of the parents’ separation and when the husband left the FMH.

parents agreed to take out a CI$30,000 loan. The loan is now repaid. The wife says that the husband paid only 30% of the total amount due. She said that he was unwilling to provide his agreed half share in the repayments of that loan and only contributed $200 per month towards the total monthly figure of $682.31. She said that, despite them both meeting the loan officer and having the terms of the loan explained to them prior to signing, what he then told her was:

"I am not paying half because you got the loan and I can only pay $200."

47. The husband states that the wife misrepresents the position. He said that he had informed her that he was unable to meet half of the monthly instalments due to his earnings and current expenses. The husband said that the parties agreed that he would pay the monthly life insurance premiums at Sagicor for the wife and daughter of approximately $280 per month until 30 August 2024 as his contribution to the loan until the loan was satisfied. His bank statements show regular payments being made to Sagicor. The wife denies that the husband had informed her in advance it was unable to meet half of the monthly loan payments nor did they agree that he would make the Sagicor payments instead. At the hearing the parties agreed that the $554 debits showing on then husband's bank statements for Sagicor payments was made up of $182.06 for the wife, $262.29 for the husband and $110.05 for the daughter. Therefore, the Sagicor element for the wife and daughter paid by the husband was $292.11. If you add this to the $200 that he said he could still pay it is less than $682.31. From each party's evidence it is clear that when the loan was taken out and up to its prepayment the wife had a considerably greater income than the husband. Again, the fact that she may have paid a larger proportion of the loan repayments is not unusual in the circumstances and would not amount to a contribution requiring a departure from equality in relation to the division of the FMH.

48. Unfortunately, the daughter again failed to maintain her grades. As a consequence, she lost her Government scholarship for the second semester of her second year which commenced in January 2021. To the daughter's credit, she was able to restore her grades for the start of the third year, and her government scholarship was restored. However, before that, to enable the daughter to complete the second year, the wife applied for and obtained a loan for CI$20,000 from the Credit Union in her sole name. The wife stated in her oral evidence that the husband indicated to her that he did not have the money to contribute to the education costs for the next term, which is why she took out the loan. She conceded that she did not have any discussion with the husband about taking out the loan and that the decision was a unilateral one. Therefore, the husband may be right when he stated in his written evidence that he was not aware of the loan and seeks a copy of the loan.

49. Rather surprisingly, the wife initially indicated that the husband had contributed $10 to the daughter's education when she was at university. That clearly was a gross exaggeration, and it was a rather surprising comment to make as prior to the hearing she had had the opportunity to review the bank statements from 1 March 2022 to 30 August 2024 exhibited to the husband's Affidavit sworn on 16 January 2026. The husband said that his monthly income did not allow for additional expenditure beyond his monthly expenses to maintain the home and cover his daily living expenses. However, he said that in or around August 2022 the daughter was expressing reluctance and emotional distress about returning to university. He said that he encouraged her to resume her studies and when she agreed to return he said that the wife told him that he would be responsible for all travel and school-related expenses associated with the return. The husband said that to prevent interruption to her education he took out a personal loan of $26,000 from Fidelity/Proven Bank[18] and he contends that this shows that he assumed significant personal debt in support of his daughter. He said that $6,000 from the loan was used solely to meet the daughter's return travel costs, the immediate university expenses and his necessary living expenses during that period. The wife accepts that he took out a $26,000 loan but he only provided $4,000 which went towards the daughter's meal plan. The wife contends that apart from these two contributions there was no further financial support from the husband for the daughter's University related costs.

50. The husband referred the Court to his exhibited bank statements in support of his contention that he did contribute towards tuition, living expenses and travel costs as required. He says that he tried to provide financial support to the best of his ability, despite the fact that his income was consistently lower than that of the wife. In 2022 he deliberately moved from making cash contributions to online bank transfers so that his contributions could be recorded. If one looks at his bank statements for the year 2022 (from March) there are regular rental payments to the daughter of usually around $425/month and other payments giving an annual total of $4,451.25. If one looks at his bank statements for the year 2023 there are $425 payments for her rent and other payments giving an annual total of $2,735. If one looks at his bank statements for the year 2024 there are payments to the daughter totalling $2,889.80. If one looks at his bank statements for the year 2025 there are payments to the daughter totalling $2,752.29. Despite these payments, in circumstances where the wife had a greater income than the husband but where he had less household expenses from 2023 onwards as he started cohabiting, there is some force in the wife's

[18] The loan letter from the Bank is exhibited to the husband's Affidavit sworn on 16 January 2026.

contention that the broader financial responsibility for education, living costs and general welfare continued to rest mainly with her throughout the daughter's studies.

51. The daughter graduated from her undergraduate course at Berklee College of Music in May 2023. The Court was told during the hearing that she commenced her Master's degree in September 2023 and graduated in October 2025. Throughout that period the daughter would have been past her 21st birthday and, in the absence of any application brought under Schedule 1 Children Act, be regarded as being financially independent from her parents. Students who embark on Masters in the USA are treated as being adults and frequently have to fund their education without support from their parents. The daughter was awarded a CI$35,000 government scholarship and a US$15,000 one from the American Musical and Dramatic Academy. At the time she was awarded the Academy scholarship, the wife and daughter were not clear that it was only a one-off payment. The wife stated that the scholarships left the shortfall as the total tuition and mandatory expenses exceeded US $70,000 per year. When they recognised that, the wife obtained a further loan in the sum of $25,000 from CIBC to pay for the balance of the tuition fees in relation to her Master's degree. The husband said that he was uncertain about the loan as he had believed that the daughter had obtained a full scholarship from the Academy which covered the tuition, room and board.

52. The wife stated in her affidavit evidence that the husband made no financial contribution to the daughter's pursuit of her Master's degree. She said that when she asked the husband for assistance his response was *"she needs to find a job"*. Again, when one looks at his bank statements it is clear that he has made some contributions albeit at a much lower level than the wife.

53. During the hearing I forcefully expressed to the parties, my commendation to the wife for the exceptional financial support that she had provided to their daughter enabling her to embark upon and complete her education up to the level of a Master's degree. I asked the husband whether he recognised that and whether he felt, no matter what restrictions the Act and case law may impose on this Court concerning the percentage division of the equity in the FMH, that "morally" he could consider now providing her with funds to partly compensate her for the drain on her finances. Rather unattractively, the husband categorically rejected the suggestion that he should consider doing so.

Parties' Needs

54. Although the husband is a little older that the wife, they are of similar ages. The husband has been residing for approximately three years in the property owned by his cohabitee. They are not married and the Court was not informed about whether there was an intention for them to do so. In fact, the husband pointed out to the Court that, as with all non-marital relationships, they may come to an unforeseen end and therefore he still required 50% of the equity to enable him to purchase land and secure his potential housing needs in the future. The wife produced an email dated 10 February 2026 from the relationship manager at CIBC. In that email the Bank noted that she was replying concerning the wife's request regarding the maximum amount that she may qualify for using equity from the FMH. The Bank highlighted that financing was restricted based on age and that the approved amount could be reduced depending on any new existing debts since the last application to the Bank. The Bank indicated in a *"preliminary estimate"* that the estimated financing amount was $53,843 payable over 132 months based on a retirement age of 65. The monthly repayment would be $550, which of course would be in addition to the existing mortgage. I recognise that if the equity in the FMH was to be equally divided, based on the potential loan information provided by CIBC, in the absence of any other assistance from a third party, the wife would be unlikely to be able to buy out the husband. This would mean that the four-bedroom FMH would have to be sold and she would either have to rent or buy an alternative property. The wife would likely require a two-bedroom property and her share from 50% of the net equity arising from the sale of the FMH would not be sufficient to enable her to purchase such a property. Regrettably, this is one of those cases where assets available, once divided, would not be sufficient for either party to purchase a suitable property with or without a mortgage. This is not a case where one of the parties requires a home for a minor child of the marriage.

Conclusions

55. Although the Court is highly sympathetic in particular to the predicament that the wife is in, especially having regard to her highly commendable financial contribution to the parties' daughter's education during her childhood and early adulthood, having regard to the factors that I must consider and the relevant case law, this is not one of those *"fringe cases"* where there should be a departure from equal sharing in relation to a FMH. Although the wife has paid the mortgage since the parties' separation, she has enjoyed the exclusive occupation of the parties' four-bedroom property. The quantum of the monthly mortgage payments she has paid is far less than she would have had to pay for a similar rental property. The wife quite rightly has not had to pay any occupation rent due to the financial responsibilities that she took on in relation to the property. The

wife wished to remain in the property post-separation and the property was not placed on the market for sale. The sale of the property was an option that the parties had at a time when they separated which was after their daughter had already embarked on undergraduate education in the USA. If they had done that they may have had a greater mortgage or buyout loan capacity than they currently have. Parties frequently do not wish to sell their family home upon separation or divorce, but unfortunately that may be the only viable option available if that is the only means of fairly distributing the matrimonial assets. As I have indicated above, I also find that the larger education expenses met by the wife, some of which were incurred unilaterally by her and which related to the daughter when she was an adult (including significant periods after her 21st birthday) again do not bring this into the category of the fringe cases set out in the case law.

56. Accordingly, I find that the equity in the FMH is CI$344,533.24. I find that the husband has a 50% interest in that equity. Therefore, if the wife is to buy out the husband, the preliminary figure would be CI$172,266.62. Having regard to the renovations paid for by the wife on the FMH, that figure should be reduced by CI$165,701.62.

57. Although I accept that the wife may very well not be able to raise sufficient funding to buy the husband out, I will afford her an opportunity to do so. I order that the wife is to pay a buy-out figure of CI$165,701.62 to the husband. That payment must be made within 3 months of the date of this order. That order is dependent on the wife being able to have the husband's name removed from the mortgage and the mortgage being transferred into her own name. There is no evidence before the Court about whether the wife has inquired with the bank whether it would be willing to transfer the mortgage into the wife's sole name thereby releasing the husband from any responsibility to pay the same. If the bank were not willing to do that the husband's future borrowing capacity would likely be even further restricted, especially having regard to his age.

58. If the wife is unable to buy out the husband, then the property is to be marketed for sale on the open market with the parties having joint conduct of the sale. The property should be marketed for CI$525,000, or at another price agreed by the parties, by an agreed realtor. After the normal deductions for costs of sale are made (i.e. (i) to discharge the mortgage, (ii) to pay the attorneys conveyancing costs and disbursements in connection with the sale and (iii) to pay the charges of

the realtor), the net proceeds will be paid in equal shares to the partiers save for a deduction of $6,565[19] from the husband's share being added to the wife's share.

THE HON. JUSTICE RICHARD WILLIAMS
JUDGE OF THE GRAND COURT

[19] In regard to the renovation expenses paid by the wife.