

1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **FAMILY DIVISION**

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5 **Cause No: FAM 171/2011**
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7 **BETWEEN:**

FRANKLYN ALLINSWORTH MILLWOOD

9
10 **PETITIONER**

11
12 **AND:**

DARLENE ELVERTA SEYMOUR-EBANKS

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15 **RESPONDENT**

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18 **Appearances:**

**Mr. David Holland of Samson & McGrath for
the Petitioner**

**Mr. Delroy Murray of Murray & Westorborg
for the Respondent**

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24 **Before:**

Mr. Justice Robin McMillan (Actg.)

25 **Heard:**

4th February 2015

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27 **JUDGMENT**
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31 1. This is a hearing at which the Court is asked to make final ancillary orders pursuant to
32 section 21 of the Matrimonial Causes Law (2005 Revision).
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34 2. The Court will consider what if any matrimonial assets there may be in this case and in
35 the event that there are any such assets how they should fairly be divided.
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1 **BACKGROUND FACTS**

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3 3. The Petitioner and the Respondent were married on 10 August 1998.

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5 4. The Petition for Dissolution of Marriage was filed on 4 August 2011 but the parties
6 had effectively been living separate and apart by or before January 2008.

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8 5. An Order for Directions was made by Mr. Justice Williams on 4 April 2014 providing
9 inter alia for this hearing to be listed on the first available date after 20 June 2014.
10 This Order was then supplemented by a Minute of Order of Mr. Justice Williams dated
11 6 June 2014 listing the matter for trial.

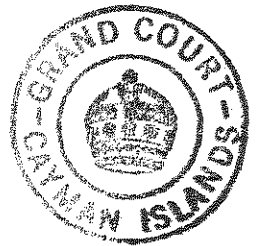
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13 6. This is a case involving a clean break between the parties and accordingly the Court
14 need not concern itself with the matters set out in section 21(a) (c) and (f) of the
15 Matrimonial Causes Law.

16 **THE GENERAL GOVERNING LAW**

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19 7. Section 19 of the Matrimonial Causes Law provides as follows:

20 *“In dealing with all ancillary matters arising under this Law, the Court shall have*
21 *regard first of all to the best interests of any children of a marriage and thereafter*
22 *to the responsibilities, needs, financial and other resources, actual and potential*
23 *earning power and the deserts of the parties.”*
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25 8. The Court’s powers are set out at section 21 of the Matrimonial Causes Law:
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1 "*At the time of pronouncing a decree under this Law, the Court shall, as*
2 *appropriate, make orders for-*

- 3 (i) *the custody, care and control of the children of the marriage;*
4 (ii) *the disposition of matrimonial property, including the matrimonial*
5 *home;*
6 (iii) *varying any settlement of the property of the spouses made in*
7 *consideration of the marriage, whether such settlement was made*
8 *before or upon the treaty of the said marriage;*
9 (iv) *varying any other settlement of matrimonial property;*
10 (v) *making financial provision from the property of either spouse for the*
11 *children of the marriage and for the other spouse;*
12 (vi) *providing for periodic payments to be made by either spouse for the*
13 *benefit of the children of the marriage and for the other spouse; and*
14 (vii) *costs."*
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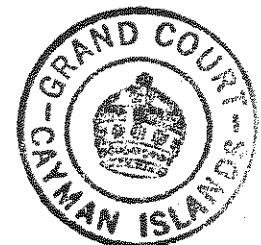
16 9. I accept that the relevant subsection in this case under which the Court will consider
17 whether to make orders is confined to section 21(b) and (g).

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19 10. In determining what assets are matrimonial assets or non-matrimonial assets, I also
20 have regard to the decision of the Court of Appeal in *McTaggart v McTaggart*¹ where
21 Chadwick P states at paragraph 3:

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23 "*[Matrimonial property] is not defined in the Matrimonial Causes Law, but it is*
24 *generally understood in the sense described by Lord Nicholls of Birkenhead in*
25 *Miller v Miller, that is to say, it comprises 'property acquired during the marriage*
26 *other than by inheritance or gift' ([2006] 2 AC 618, at para 22). Its distinguishing*
27 *feature is that it is 'the financial product of the parties' common endeavour'"*;
28

29 And, at paragraph 56:

30 "*As I have explained earlier in this judgment, property acquired prior to the date*
31 *of final separation (at least if acquired during the course of the marriage) is likely*
32 *to be the product of common endeavour; property acquired after that date (unless*
33 *it can be said to be the fruits of pre-separation property) is much less likely to be*
34 *the product of common endeavour."*
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¹ [2011] 2 CILR 366

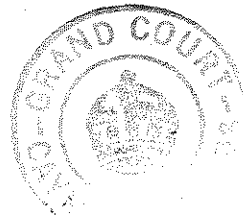
1 11. The Cayman jurisprudence has accepted and recognized the modern concept of
2 marriage as a union of presumed equal partners, per Forte JA in *Wight v Wight*². In
3 short, what the union has created by its common economic endeavours, the parties are
4 entitled to share upon the dissolution of the partnership. One must also bear carefully
5 in mind a distinction between common endeavour and separate endeavour.

6
7 12. In addition, although the starting point for the division of any matrimonial assets is
8 equality, nonetheless the Court may depart from an equal division of the matrimonial
9 assets only where there is good and clear reason to do so. Essentially, the overall aim
10 of the Court at that point is to achieve fairness in all the circumstances.

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12 13. In order to address and determine the issue of beneficial interests, the role of the Court
13 as described by Baroness Hale at paragraph 60 in *Stack v Dowden*³ can be summarized
14 as follows:

15 *“The search is to ascertain the parties’ shared intentions, actual, inferred or*
16 *imputed, with respect to the property in the light of their whole course of conduct*
17 *in relation to it.”*
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20 14. This principle is of particular assistance in the present case.
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² 2010-1 CILR 60 at page 78 paragraphs 47 - 48

³ [2007] 2 AC 432

1 **THE WRITTEN ARGUMENTS OF THE PETITIONER**

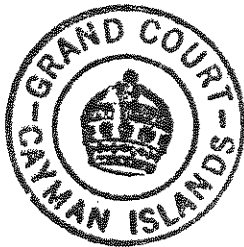
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3 15. The Petitioner's contentions are summarized concerning Prospect Block 25B, Parcel
4 477 at paragraphs 16-21 of his Skeleton Argument as follows:

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6 "16. In essence, it is seemingly W's position that she and her mother (Ms.
7 Mable Williams – hereinafter referred to 'MW') originally bought this
8 land together in and around 1985 at which time they held the land in the
9 following shares: W- ¼ and Mother ¾. As per MW's affidavit evidence
10 [Tab 17, para. 5] sometime after W commenced her employment with
11 Barclays Bank (c.1995) she applied for a loan, 'to build a home on said
12 land' and as part of the lending process W was required to transfer the
13 land into her sole name, which she did in 1996. In November 2006, the
14 land register was amended once more so that MW once again held a ¾
15 share.

16 17. It is seemingly W's position that this property should not be treated as a
17 matrimonial asset on the basis that she paid the loans on the property
18 during the marriage with only, 'indirect contributions' from H [see para.
19 42 of W's affidavit filed 10 March 2014 – Bundle B]. She also asserts that
20 her mother owns ¾ of the asset.

21 18. From H's perspective, the FMH is plainly a matrimonial asset and is
22 subject to equal division. Aside from established case law on the subject, H
23 takes this position for the following reasons:

- 24 i. The parties co-habited for a significant period prior to the
25 construction of the FMH (for almost 10 years) and the
26 loans were taken and the property built on the specific
27 understanding that this would be the matrimonial home;
- 28 ii. H assisted with works/repairs to the property prior to
29 moving in, during the currency of their residence
30 (including the post-Hurricane Ivan clean-up) and even
31 post-separation;



1 16. Concerning Block 25B, Parcel 401 the Petitioner also states in argument at paragraphs
2 34-37:

3 "34. *H purchased this land in 1987 prior to marriage. The parties never*
4 *used/resided on the land. H commenced building a dwelling on the land*
5 *once it was clear that the marriage has broken down in 2006. H has been*
6 *residing in this property since July 2008.*

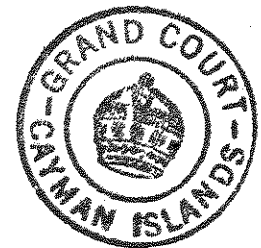
7 35. *W accepts at paragraphs 22 to 26 of her affidavit filed 10 March 2014 that*
8 *the land was purchased pre-marriage, the parties never lived together in*
9 *this property and that she did not financially contribute to the property.*

10 36. *It is respectfully submitted that this asset was purchased by and developed*
11 *solely by H. It cannot be said that this property was a product of common*
12 *endeavour and it is therefore H's primary position that this property*
13 *should be viewed as a non-marital asset not subject to division.*

14 37. *Even if the court does not share this view and the equity falls to be divided*
15 *on an equal sharing basis, W's maximum share of this asset would be*
16 *CI\$63,500 (i.e. 50% of CI\$127,000 equity)."*

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18 17. Concerning the Jamaican property, the Petitioner then states at paragraph 40:

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20 "40. *H on the other hand has been forthcoming regarding his 1/3 interest in a*
21 *property in Jamaica which is registered in the names of H, his sister and*
22 *his mother. In reality, H asserts that the 100% beneficial owner of this*
23 *property is his mother and this is not therefore a marital asset. At best, the*
24 *value of H's interest in the property is 1/3 of the equity (approximately*
25 *US\$10,000)."*



THE WRITTEN ARGUMENTS OF THE RESPONDENT

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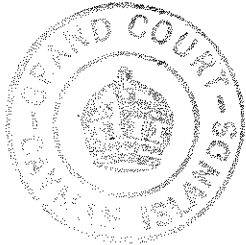
18. With regard to Parcel 477, the Respondent states that at the time of the marriage on 10 August 1998 the property was registered in the joint names of the Respondent and her mother, Mable Williams-Seymour.

19. The Respondent states that the property was purchased before the Respondent knew the Petitioner and she refutes the claim that he contributed as such to the purchase of the property.

20. The Respondent argues that Parcel 477 is not matrimonial property.

21. Conversely the Respondent submits that Parcel 401 does constitute a matrimonial asset. She contends that it was built by the Petitioner during the course of the marriage and for the purpose of becoming the matrimonial home of the parties.

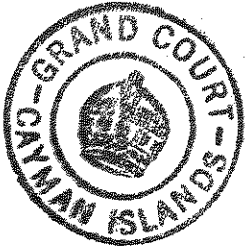
22. The Respondent further argues that a home in Jamaica registered as Volume 1365 Folio 649 is also a matrimonial asset, having been purchased during the currency of the marriage, and of which the Petitioner is a joint owner.



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23. By way of general guidance, the Respondent relies inter alia upon the decision in *Wachtel v Wachtel*⁴ where the English Court of Appeal ruled that the phrase “family assets” refers to things acquired by one or other of the parties concerned with the intention that there should be continuing provision for them and their children during their joint lives and used for the benefit of the family as a whole.

24. Finally, the Respondent points out that in the Grand Court case of *Miller v Miller*⁵ Sir John Summerfield states on page 5 that in his view “matrimonial property” in section 21(b) of the Matrimonial Causes Law roughly equates to “family assets” in the *Wachtel* case.



⁴ [1973] 1 All R.R. 829
⁵ (Cause No. 68 of 1980)

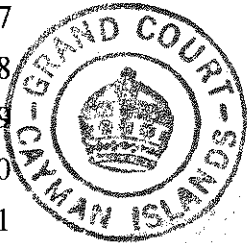
AGREED CASE SUMMARY FOR HEARING

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25. In addition to the Skeleton Arguments on both sides, together with counsels' oral submissions. I have been referred to the Affidavits of the Petitioner, the Respondent and Mable Williams, as well as to an agreed case summary, which seeks to identify issues to be addressed, although it is not inclusive of all issues which can be raised in this case.

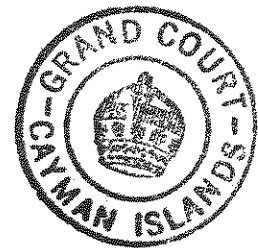
26. The agreed case summary states in part:

- “3. *The parties began their relationship in the mid to late 1980's (according to H) or early 1990's (according to W). After a lengthy period of cohabitation, they were married on 10 August 1998. They have lived separate and apart since in and around January 2008 when the Petitioner left the former matrimonial home.*
- 4. *The parties both purchased lots of land in Prospect in the late 1980's and subsequently build dwelling houses thereon. The lots of land were i) Spotts (Block 25B, Parcel 477) – the former matrimonial home was built thereon in 1996 and ii) Spotts (Block 25B, Parcel 401) – H's current residence was built thereon in 2008.*
- 5. *In essence, the parties resided together in the former matrimonial home from 1996 until they separated in January 2008. W has continued to reside in the FMH and H has resided at Spotts (Block 25B, Parcel 401) ever since.*
- 6. *Both parties have referred to various other potential marital assets in their affidavit evidence however for the most part discussions have centered around the two real properties referred to above which are by far the most valuable assets.*



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7. *It is W's position that she is entitled to all of the equity in the FMH, plus half of the equity in H's current residence. It is H's position that H and W are in effect the beneficial owners of the FMH despite W's mother holding a 3/4 share on the title documents and at the very least, he is entitled to a significant portion of the equity in the former matrimonial home."*



THE PETITIONER'S EVIDENCE

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27. According to the Petitioner's Affidavit dated 18 March 2014 the parties began their relationship in and around 1985 and they were eventually married in 1998.

28. Sometime in 1987 each of them agreed to buy a plot of land in Prospect. The Petitioner purchased what is now Block 25B Parcel 401 and the Respondent purchased Block 25B Parcel 477.

29. The Petitioner further states that they *"agreed that we would build our matrimonial home on the land at Block 25B Parcel 477 which was owned in the joint names of the Respondent and her mother at that time (unknown to me)."*

30. The Petitioner continues:

6. *We went to the bank and secured a loan and although my name was not added to the Land Register, I was personally named on the loan which was used to start building our home.*

7. *We eventually proceeded to build a 6,000+ square foot matrimonial home on the land and we moved into the property in January 1996.*

8. *On 1st February 1996 the Respondent's mother transferred her (3/4) share in the land to the Respondent so that the property was registered in my wife's sole name thereafter. A copy of the relevant Transfer form is attached.*

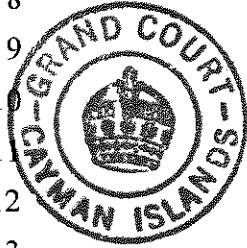
9. *Prior to moving into the partially completed matrimonial property the Respondent and I lived together at the Sunshine Apartments on Crewe Road, Red Bay condominiums and the Respondent's mother's home in Prospect.*



1 10. *The Respondent and I occupied the newly constructed property as our*
2 *matrimonial home from January 1996 until January 2008. In and around*
3 *2006 our relationship had broken down and we were living separate lives*
4 *within the same household. I later discovered that it was in and around*
5 *this very time (November 2006) that the Respondent (without my*
6 *knowledge or consent) added her mother's name to the title again, giving*
7 *her mother a ¾ share in the property.*

8 11. *I believe that the Respondent did this deliberately to thwart my interest in*
9 *our marital home.*

10 12. *Aside from my financial contributions towards the building of the*
11 *matrimonial home and my contribution to the mortgage and household*
12 *expenses whilst living there and post-separation, I also personally did a*
13 *considerable amount of work to the property."*



14
15 31. It is to be noted that in paragraph 6 set out above the Petitioner makes a factual
16 assertion under oath that he was personally named on the loan which was used to start
17 building on the property. It subsequently became clear however that the Petitioner
18 actually provided a guarantee only in relation to the loan, although this discrepancy
19 was characterized by his counsel as an error. I shall return to this relevant matter and
20 its implications at a later point.

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22 32. The Petitioner then further adds:

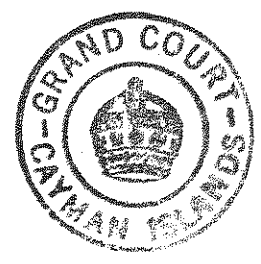
23 "16. *Despite the fact that our relationship had broken down completely in 2006,*
24 *I continued to make a considerable contribution to expenses relating to the*
25 *former matrimonial home until I moved into my current property in 2008.*
26 *Bank records from that time show many withdrawals being made by*
27 *"Darlene Seymour" from my savings account with the Royal Bank of*
28 *Canada. Copies of the relevant statements are attached."*
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1 33. The Petitioner states that the Respondent used her discretion to apply his funds
2 "towards my share of the mortgage, the electricity and water bills and her own share
3 of the mortgage."

4
5 34. In regard to Block 25B Parcel 401, the Petitioner states that when it was clear that the
6 relationship had broken down, in February 2006 he obtained a mortgage to enable him
7 to build on the land a 2,200 square foot dwelling. The property was registered in his
8 sole name and he had been residing there since July 2008 (post-separation).

9
10 35. The Petitioner also states that the property in Jamaica was purchased by his mother
11 Joyce Millwood in 2003 and that she provided all of the deposit monies but that she
12 added his name and his sister's name (Ms. Pauline Millwood) to the title as joint
13 tenants for the purpose of securing a mortgage. He states that his mother and his sister
14 have been paying the mortgage and that realistically this is his mother's home and he
15 was never intending to receive any benefit from it.

16
17 36. By way of illustrating withdrawals from the savings account into which his salary had
18 been paid, the Petitioner shows that withdrawals were made by Darlene Seymour of
19 CI\$1,520.00 and \$1,350.00 on 1 August 2005 and 26 August 2005 respectively (page
20 52 of Exhibit "FAM-1"), in addition to other withdrawals. He also states that he
21 personally did a considerable amount of work to the property.



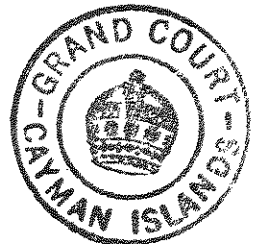
1 37. In a further Affidavit dated 2 May 2014, made in response to the Respondent's
2 Affidavit dated 4 March 2014, the Petitioner adds that he did not start construction on
3 Parcel 401 until around April 2006 when the relationship completely ended. He claims
4 that it was untrue therefore that he stated that he was building the home for the parties
5 to reside in.

6
7 38. The Petitioner claims further that he continued to make significant contributions to
8 "*our joint expenses*" on the property until he was forced to leave "*the marital home*".
9 He also states that by 4 January 2008 the Respondent had changed all the door locks.

10
11 39. The Petitioner takes issue as to the ownership of Parcel 477, stating that the
12 Respondent alone was registered as owner until 1988, and that the Respondent added
13 her mother's name in September 1988 without his knowledge.

14
15 40. He affirms that he went with his wife to the bank to arrange the mortgage for building
16 "*the marital home*" adding that the Respondent removed her mother from the land
17 register in 1996 and kept her off the title register for 10 years until 2006, the same year
18 that he began construction on Parcel 401.

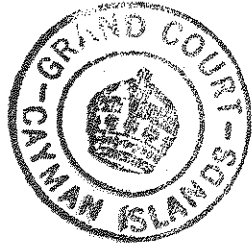
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20 41. He reiterates his contention that the Respondent was the real owner of the property and
21 that adding her mother to the register was in preparation for any breakdown of the
22 relationship.



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42. The Petitioner also places reliance upon the outcome of an unrelated court case where the Respondent had pursued an action against her nephew in relation to funds which apparently had been placed with her nephew for the purposes of hiding them. I shall return to this issue more specifically at a later point in relation to the Respondent's evidence.

43. Finally, at pages 27 and 28 of Exhibit "FAM-2" the Petitioner exhibits a copy of the land register for Parcel 477, showing that the Respondent was the original proprietor from 2 June 1987 until on 20 September 1988 Darlene Seymour was registered as holding a 1/4 share and Mable Williams was registered as holding a 3/4 share.





THE RESPONDENT'S EVIDENCE

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4 44. The Respondent has sworn two Affidavits dated 4 March 2014 and 8 May 2014 and in
5 addition to relying on those Affidavits the Respondent further relies upon the Affidavit
6 of Mable Williams (Seymour) dated 8 May 2014. I shall refer to each of them in turn.
7

8 45. In her Affidavit dated 4 March 2014 the Respondent states that she is the owner of
9 Block 25B Parcel 477.
10

11 46. In reference to Parcel 401 she agrees that the Respondent and she have never lived
12 together in this home or on this property. However, the Respondent states that the
13 Petitioner represented to her that the home was being built for them.
14

15 47. The Respondent likewise states that she was made to understand that on completion of
16 the home it would become their matrimonial home.
17

18 48. She confirms that Parcel 477 was purchased by her mother Mable Williams-Seymour
19 and the Respondent in or about 1985. At that time she states that she did not know the
20 Petitioner and that she was married to Mr. Curlon Ebanks, and she points out that the
21 Petitioner's name has never been added to the property register.
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23 49. The Respondent describes how she commenced building on Parcel 477 aided with
24 loans from the Bank of Butterfield and the Credit Union.
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1 50. Then in 1995 while employed with Barclays Bank she applied for a staff home loan,
2 and she explains that it was a requirement of the Bank that in order for her to obtain the
3 favourable staff loan rate of 3% the property had to be registered in her name alone.
4

5 51. The Respondent then states:

6
7 *"In order to meet with this requirement my mother agreed to transfer the property*
8 *into my sole name. This was done in 1996".*
9

10 52. The Respondent further adduces copies of the relevant documentation supporting this
11 transaction, to which I have also been referred by her counsel.
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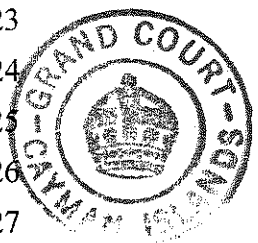
13 53. The Respondent further states:

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15 *41. My mother and I moved into the home prior to the marriage between the*
16 *Petitioner and myself.*

17 *42. I have been solely responsible for the payment of the mortgage and*
18 *various other loans relative to the home and furnishing since the inception*
19 *of such loan until date without any direct contribution from the Petitioner*
20 *and any indirect contribution from him ended in or around 2003 when he*
21 *commenced building on Block 25B Parcel 401.*

22 *43. On my terminating my employment with Barclays Bank I lost the*
23 *preferential staff loan rate. After the said termination I went to work with*
24 *the Royal Bank of Canada. I applied to both the First Caribbean*
25 *International Bank and the Royal Bank of Canada for them to take over*
26 *the existing loan at the Barclays Bank.*

27 *44. At that time my mother requested that her name be reinstated as an owner*
28 *of the property and both Banks acceded to this request."*
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1 54. She further states at paragraph 50(p):

2 “(p) I deny the statement by the Petitioner that he and I went to the Bank and
3 secured a loan to construct the home and that he was personally on the
4 loan. I put the Petitioner to strict proof of this statement. To the best of my
5 knowledge he was merely a Guarantor of the loan but he never made any
6 of the loan payments in respect of the same.”
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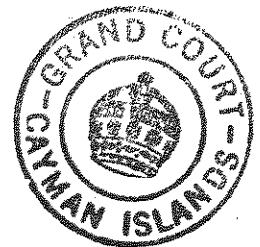
8 55. In relation to the Jamaican property, the Respondent denies that the Petitioner and she
9 had any discussion and she claims that she discovered its existence upon a letter
10 concerning it being inadvertently placed in her mailbox.
11

12 56. At Exhibit “DES22” then appears a judgment of the Grand Court *Darlene Seymour-*
13 *Ebanks v. Tedrick Jamison Green and Virgil Seymour*⁶, a decision by Ms. Acting
14 Justice Nova Hall dated 18 December 2013.
15

16 57. The action concerned the recovery of CI\$55,000 previously paid over by Darlene
17 Seymour-Ebanks, the Respondent, to her nephew Mr. Tedrick Green.
18

19 58. It was alleged by the First Defendant that the Plaintiff “*had been seeking to illegally*
20 *hide matrimonial assets. In her evidence-in-chief, the Plaintiff acknowledged giving*
21 *the proceeds of the sale of the property to the First Defendant to keep for her due to*
22 *her matrimonial and personal issues.*”
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24 59. *Inter alia*, the learned Judge made the following finding of fact:
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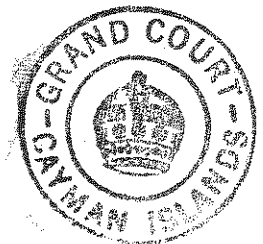
⁶ Case No. 133 of 2013

1 *“Between 2007 and 2008 the Plaintiff arranged with the First Defendant that the*
2 *latter would hold money in his name at a bank on her behalf until she requested*
3 *the return of same. The Plaintiff indicated that these funds represented money*
4 *which she did not wish to become subject to matrimonial proceedings. The First*
5 *Defendant agreed to do this.”*

6
7 60. Although the funds in question have not themselves become an issue in these ancillary
8 proceedings, nonetheless the Respondent does not dispute her intention at the relevant
9 time. The implications arising from this matter will be considered further at a later
10 point when I evaluate the evidence.

11
12 61. In addition, in her Affidavit dated 8 May 2014, the Respondent draws attention to and
13 identifies certain factual errors in the Petitioner’s Affidavit dated 18 March 2014, in
14 particular in relation to paragraph 38 of that Affidavit, in essence taking an issue with
15 the reliability of the Petitioner’s evidence.

16
17 62. The Respondent also relies upon the affidavit of Mable Williams (Seymour) dated 8
18 May 2014. Ms. Williams exhibits a copy of a piece of paper as Exhibit “MW1” and
19 asserts that she recorded how she gave her daughter and the Respondent some of the
20 money to purchase Parcel 477 in 1985, and that she was to be a 75% owner of the
21 property and her daughter was to be a 25% owner of the same.



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63. Thereafter in order to assist her daughter to qualify for a bank loan she transferred title of the property to her, as previously described. She adds that a number of years later the Respondent obtained a new loan agreement from the Royal Bank of Canada which had no objection to Ms. Williams' name being restored as owner of the property along with her daughter.



EVALUATING THE EVIDENCE

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64. In regard to the evidence of the Petitioner it will be recalled that at paragraph 6 of the Petitioner’s Affidavit dated 18 March 2014 he had stated that although his name was not added to the land register he was personally named on the loan which was used to start building on Parcel 477. In fact it is clear that he had provided a guarantee of the loan, which is a significantly different matter.

65. This point was suitably clarified, and indeed properly conceded by counsel for the Petitioner. Had it not been so clarified, the Court might have been seriously misled as to an important issue in the case.

66. Accordingly, I remind myself that the Petitioner’s evidence as a whole must be considered and evaluated with circumspection and caution.

67. Meanwhile, in regard to the evidence of the Respondent it will be recalled that she had taken preparatory steps to ensuring that in the event that certain funds were or became matrimonial assets those funds could be safely hidden. Indeed, that was the substance of a finding of Ms. Acting Justice Nova Hall.

68. Accordingly, I remind myself that the Respondent’s evidence as a whole must be considered and evaluated with circumspection and caution.



1 69. Turning now to the facts themselves, the Court must bear carefully in mind that, in
2 relation to Parcel 477, at no material time has the Petitioner's name appeared on the
3 proprietor register, nor has the Petitioner taken any steps to be so registered.

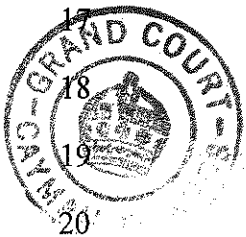
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5 70. Equally, in relation to Parcel 401, at no material time has the Respondent's name
6 appeared on the proprietor register, nor has the Respondent taken any steps to be so
7 registered.

8
9 71. Whether by common design or by personal individual preference, this is a state of
10 affairs which has prevailed for many years and of which the Court is entitled to take
11 full account as reflecting the absence of a common endeavour.

12
13 72. In this context, I also remind myself of the principle in the *Stack* case as to the
14 ascertainment of "*the parties' shared intentions*".

15
16 73. Although the Petitioner made financial contribution to the household at Parcel 477 and
17 engaged in some maintenance and decorating activities there nonetheless there is no
18 evidence in this case of any direct linkage between his contributions and the payment
19 of the mortgage loan itself.

20
21 74. In addition, the Petitioner's allegation that the Respondent arranged for the re-addition
22 of Ms. Williams as joint proprietor only for the purposes of thwarting any
23 characterization of the property as matrimonial property is contradicted by a review of
24 the documentary materials, including banking correspondence showing that this lady
25 has an historic record of involvement in this property along with her daughter.



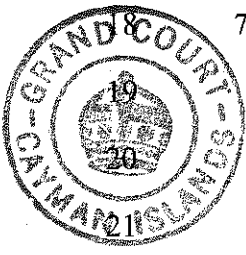
1 75. Quite apart from the Respondent's evidence on this subject, confirmed as it is by
2 documentary support, there is also the sworn evidence of her mother Ms. Williams to
3 this effect to consider.

4
5 76. In all the circumstances, having borne in mind the concern which I have indicated as to
6 the weight and reliability of the Respondent's evidence at large, I nonetheless accept
7 and believe her evidence, along with that of Ms. Williams, as to the status of Parcel
8 477.

9
10 77. I find that there was no common endeavour between the Petitioner and the Respondent
11 as to the ownership of Parcel 477, and I conclude upon weighing all the evidence that
12 this property is not and never has been matrimonial property.

13
14 78. Turning now to the ownership of Parcel 401, the Petitioner's evidence that he built on
15 the lot only in light of his deteriorating relationship, as a home for himself is
16 persuasive and cogent.

17
18 79. In all the circumstances, having borne in mind the concern which I have indicated as to
19 the weight and reliability of the Petitioner's evidence at large, I nonetheless accept and
20 believe his evidence as to the status of Parcel 401.



21
22 80. I find that there was no common endeavour between the Petitioner and the Respondent
23 as to the ownership of Parcel 401, and I conclude upon weighing all the evidence that
24 this property is not and never has been matrimonial property.

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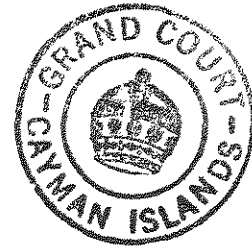
1 81. Similarly with regard to the Jamaican property I accept and believe the Petitioner's
2 evidence. I find that there was no common endeavour between the Petitioner and the
3 Respondent as to the ownership of the Jamaican property and I conclude upon
4 weighing all the evidence that this property is not and never has been matrimonial
5 property.

6
7 82. In view of the manner in which counsel for both parties have presented their respective
8 submissions, I make no further finding as to whether any other property in the
9 ownership of either of the parties is matrimonial property, it being unnecessary for me
10 to do so.

11
12 *CONCLUSION*

13
14 83. Accordingly, I shall make no order as to there being any matrimonial property for
15 division. I shall, however, hear counsel for the parties as to costs.

16
17
18 **Dated this the 6th day of March 2015**



19
20
21 *Robin McMillan*

22
23 **Mr. Justice Robin McMillan (Actg.)**
24 **Acting Judge of the Grand Court**