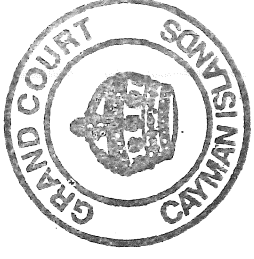


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**IN THE GRAND COURT OF THE CAYMAN ISLANDS**  
**HOLDEN AT GEORGE TOWN, GRAND CAYMAN**  
**CAUSE NO. D 123 OF 1990**



**BETWEEN:** Sylvia Viola Watler      **PETITIONER**  
**AND:**      Waide Excell Watler      **RESPONDENT**  
**FOR THE PETITIONER** - Mrs. Karin M. Thompson  
**FOR THE RESPONDENT** - Mr. Michael Parkinson  
**Before** Harre CJ

**JUDGMENT**

The parties were married on 19th October 1977. Before that they had known each other for about eight years. The respondent was a seafarer for some 44 years until his retirement in 1988. The nature of that calling meant that he spent much time away from home. Before the marriage, he used to visit the petitioner in Jamaica as opportunity arose. The petition was filed on 14th November 1990. There was an answer and cross petition, but the suit ultimately proceeded undefended. An amended petition was proved in November 1995. The ancillary matters are now for determination.

The respondent had a successful career at sea. He was described in evidence as reliable, honest, faithful and very capable. His virtues undoubtedly included thrift and an ability to manage the money which he saved and the assets which he inherited. By the time of the hearing before me he possessed the following real and personal property -

- (a) The matrimonial home described as Registration Section, EAST END, BLOCK 75A, PARCEL 108. This property was originally registered in the sole name of the Respondent but was transferred by the Respondent on the 9th day of February, 1990 into the names of himself, his son, RAYAL KENNETH WATLER and his daughter, KERRY ANN NIXON as Joint Proprietors. The valuation of this by BCQS is CI\$185,000 and by JEC Building Consultants is CI\$237,800.
- (b) The undeveloped property described on the Land Register as EAST END, BLOCK 75A, PARCEL 6, which is registered in the sole name of the Respondent and professionally valued by Mr. Alistair Patterson at CI\$110,000 in December 1995. The other valuations by Mr. Patterson to which I now refer were made during the same month.

- (c) The undeveloped property described as NORTHEAST COAST, BLOCK 61A, PARCEL 26, which is registered in the sole name of the Respondent and valued at CI\$25,000 by Mr. Patterson.
- (d) Commercial property comprising a single storey building described on the Land Register as GEORGE TOWN SOUTH, BLOCK 14E, PARCEL 364 which is registered in the sole name of the Respondent and valued by Mr. Patterson at CI\$155,000.
- (e) The undeveloped property described on the Land Register as WEST BAY NORTH WEST, BLOCK 4E, PARCEL 413. This property was originally registered in the name of the Respondent but was transferred by the Respondent on the 12 day of December, 1990 to the names of himself and his son, RAYAL KENNETH WATLER as Joint Proprietors. It was valued by Mr. Patterson at CI\$25,000.
- (f) Accumulated savings of at least CAD\$564,463.49, US\$44,715.76 and US\$11,825.71.
- (g) Two motor vehicles including a 1995 Cadillac which is acknowledged by the Respondent to be valued in the range of CI\$45,000.00.

The Petitioner owns no real property. She does however have a good job as an Assistant Trust Officer with a bank. It carries a salary of CI\$2,908 per month with good pension entitlement. She became a member of the bank's pension scheme in 1982. On retirement at 65 she would receive a pension of 47.36% of her final year's earnings, or 39% at age 60.

At the date of the hearing she was 51 years of age and her husband was 71. He has no pension benefits.

All the children of the parties are now adult and self supporting. The two children of the wife by a previous marriage gave oral evidence on behalf of their mother. They both have successful careers - one as an attorney and one as a Customs official - and their evidence was consistent with that of Mrs. Watler. Both said they held no property in trust for their mother on her behalf. Indeed the evidence of the daughter who qualified as an attorney was that her mother had taken out a loan to help her with her Master's degree and had paid for her tuition and housed her.

The relevant statutory provisions for determining applications for ancillary relief in the Cayman Islands are set out in Sections 18 and 21 of the Matrimonial Causes Law (“the Law”).

In this case (there being no children to consider) the Court must in particular have regard to the responsibilities, needs, financial and other resources, actual and potential earning power and the deserts of the parties when exercising its powers under S.18.

Section 21 of the Law deals with the Orders that the Court can make “as appropriate.”

The statement of principle by Sir John Summerfield CJ in MILLER v MILLER, (Cause No. D68 of 1980), has been referred to often in our Courts. It was to the effect that the Cayman Legislation gives the Court a freer hand and a much wider discretion in exercising its power in making Orders ‘as appropriate’ pursuant to Section 21 of the Matrimonial Causes Law. In particular ‘matrimonial property’ in Section 21 (b) roughly equates with ‘family assets’ in WACHTEL v WACHTEL, (1973) 1 All E.R. 829, but that does not mean that other assets owned by either spouse

are left out of consideration or are otherwise immune when making Ancillary Orders under Section 21. Paragraph (e) of that Section specifically otherwise provides.

At the time of the marriage the husband had already built a house in George Town and had substantially completed another at parcel 108 in East End which was to become the matrimonial home. He had also inherited two parcels of land valued respectively at CI\$110,000 and CI\$25,000 and accumulated substantial cash balances at CIBC.

This is fortunately, a case where there are sufficient liquid funds available for a clean break to be achieved by a lump sum payment without the need for periodic payments thereafter. The question for determination is what the size of that payment should be. The husband argues that it should be at a modest level which will provide for a down payment on a small dwelling or for investment for additional financial security on retirement.

That approach is in my view ungenerous. I do not accept that the wife made little or no contribution to the marriage. Nor, on the other hand, do

I accept that the husband was improvident in leaving his wife and his two children without funds while he was at sea. He made an arrangement with his employer that she could approach him in the event of problems arising and I accept that she never had occasion to do that. I attach no great significance to the fact that the parties did not pool their resources. That they should not do so seems to me to be a perfectly sensible and practical arrangement in view of the exigencies of the husband's employment at sea. As often happens in cases of this nature I was taken in great detail through records to show who paid for this and who for that. In the end, unless the situation is extreme, it does not help a great deal in determining what is an appropriate order once the marriage is over.

There is evidence that the Petitioner is not in the best of health. I shall base my findings on the assumption that she is more likely to retire at 60 than at 65. That would give her an income at that age of \$1,136 per month.

The petitioner's primary need is for somewhere decent to live. I am satisfied that her accommodation is far below what she can reasonably expect.

The respondent has ample resources, at the age of 71, to provide for his personal needs. He has an emotional need to preserve assets for his descendants. My assessment as he gave his evidence was that this meant a great deal to him as a Caymanian of the old school. I shall not interfere at all with the arrangements which he has made in respect of his real estate which was acquired before his rather late marriage. Among that real estate is the home in which he lives.

In my judgment the wife should have a once-for-all payment out of the respondent's liquid funds which will entitle her to put down at least the greater part of the purchase price of a small residence suitable for a single person in her station in life, or invest for additional income should she wish. I assess that sum at CI\$100,000. The husband's total cash assets were, according to the latest bank confirmation at the time of the hearing CI\$393,129.97 from which he derived a monthly income of CI\$2,111.20. This will be reduced by about 25% by the payment which I

order. On the other hand he will retain his home and the other capital assets which I have described and will have ample for his needs, at his age. His wife, whose future earning power is problematic, has difficulty in living decently on her present resources.

So my order seeks to strike a balance between the income and capital resources, in accordance with sections 18 and 21 of the Matrimonial Causes Law. It is that the respondent pays CI\$100,000 to the petitioner, such sum to be paid by instalments if necessary, at such time or times as the interest bearing sums deposited by the respondent may be realised without penalty. Payment in full shall constitute full and final settlement of ancillary matters to be determined between the parties, subject to any submissions about costs. In the meantime there will be liberty to apply with regard to the working out of this order.

24th September 1997



G.E. Harre  
Chief Justice

