

# 820

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
 HOLDEN AT GEORGE TOWN, GRAND CAYMAN

IN CHAMBERS

CAUSE # D 58/91

20-12-95

BETWEEN	LORETTA FURNISS	PETITIONER
AND	JOHN FURNISS	RESPONDENT

Both parties in person

SCHOFIELD J.

JUDGMENT

On the 1st December 1992 I made an order which dealt with all ancillary matters in this divorce suit. Custody of the one child of the marriage was given to the petitioner, a division of the proceeds of sale of the main matrimonial asset, a house in England, was ordered and an order for maintenance of the child was made in the sum of US \$500 per month. I also ordered the respondent to pay a monthly sum of maintenance for the petitioner until such time as the English property was sold. Since that date my order has been varied by consent of the parties when the matter reached the Court of Appeal on appeal by both parties from my order. For our purposes I need only record the following terms of that order made on 20th November 1993. That the English property was ordered to be transferred to the sole name of the

petitioner. That the respondent was ordered to make a lump sum payment to the petitioner in full satisfaction of her maintenance requirements and the order for maintenance of the child was increased to US \$800 per month. This maintenance order was made on the basis that the respondent is responsible for the education expenses for the child and all her extra-curricular activities. He also maintains a health insurance policy for the child.

The petitioner now applies for a variation of the orders. She seeks a general increase in maintenance for the child and seeks an order that the school fees and extra expenses be paid direct to her. She also seeks an order that the child be not removed from the jurisdiction without leave of the Court or without the prior written consent of both parties. A third limb of the summons is that directions be given to the respondent to set up a trust or other fund for the child in an amount equal to at least two thirds of the respondent's capital assets.

I can deal with the latter prayer at once. It seems to be based on the petitioner's belief that as she has been responsible in no small way for the respondent's present financial position he should be seen to acknowledge that by transferring a portion of his capital assets to their child. Further it stems, I feel, from her fear that as the respondent has remarried he will be tempted to ignore the requirements of his daughter by his previous marriage. I know of no precedent for such an order. I do not think that the respondent has any substantial capital assets to settle on his daughter. Further he

has shown every desire to acknowledge his obligations to her. An order in the terms sought is inappropriate, at the very least, and will not be granted.

So far as the prayer that the child be not removed from the jurisdiction without the prior written consent of the parties or consent of the Court is concerned, whilst there does not seem to be any immediate fear that the child will be whisked from the jurisdiction by either party, given the history of the matter I consider it would give the parties some security to have such order in place and I see no reason not to make it. I accordingly grant such prayer.

So far as the education and other expenses for the child are concerned, whilst there were difficulties it seems over payment of them for some time when the respondent was experiencing cash flow problems, these have now been resolved and all the fees are up to date. There is no immediate fear of a repetition and, even if the respondent did experience such difficulties in the future, I cannot see how an order that the respondent pay the expenses direct to the petitioner would alleviate the problems with payment which would be thereby involved. The present arrangements for payment of the education and other expenses for the child will continue in force.

The petitioner bases her application for increased maintenance for the child on her inability to sell or let the English property and her inability to secure employment in these Islands. The

applicant, in support of the application, revisited many of the matters which were reviewed for the purposes of consideration of distribution of capital assets and maintenance for the petitioner herself. We must not lose sight of the fact that we are dealing with maintenance for the child and questions of sale of the English property and employment of the petitioner are matters of a temporary nature. We must not clothe maintenance for the wife in the garb of maintenance for the child. The respondent has offered an increase of US \$200 maintenance for the child and that appears to be a fair offer considering the length of time the order has been in force. The respondent's earnings have not improved since his move from his former law firm.

I order that maintenance of the child be increased from US \$800 to US \$1000 from the 1st January 1996.

The respondent will meet the costs of the application.



D. SCHOFIELD  
JUDGE

20th December 1995.