

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN
CD 138/93

13-06-95

BETWEEN : HUGH O. SCOTLAND

AND : MARY K. SCOTLAND

Mr. Michael Parkinson for the petitioner/husband
Mr. Michael Alberga for the respondent/wife

JUDGMENT

Schofield J.

The marriage of the parties lasted just short of twenty-six years. Their three children are grown up and are self-supporting. Both parties worked hard and consistently throughout the marriage and have accumulated a certain amount of property. Both parties are still working but the wife seeks not only a division of the assets, but an order for periodical payments.

The matrimonial assets and their value have been agreed by the parties. The wife has remained in the matrimonial home in Lower Valley. She claims the home and the land upon which it is situated

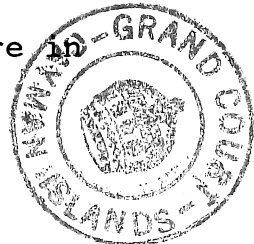


together with an adjoining half acre lot. The husband is prepared to concede these two properties (Lower Valley block 28B parcels 359 and 360) which are free from incumbrance. They are registered in the name of the husband. I should add that the matrimonial home is in need of some repair work.

There are four other properties, all registered in the name of the husband, to which the wife makes no claim although they are matrimonial assets. Lower Valley Block 38B parcel 87 is valued at \$20,000. There are three parcels of land in Cayman Brac which the husband regards as family land and wishes to pass on to his children. They are worth, together, \$40,000.

There is a certificate of deposit in the husband's name with the Royal Bank of Canada worth US\$22,101. The parties have in their joint names a certificate of deposit with Barclays Bank in the sum of US\$36,709. The husband also has shares in Cable and Wireless worth US\$25,500.

The husband has worked with Cable and Wireless for the past twenty seven years. He is the Supervisor of Customer Maintenance and as such earns a monthly salary of \$4700 gross and \$4300 net. The \$400 difference, it seems, goes to a pension fund of which the capital value is now \$373,689.97. It is agreed by the parties that I cannot divide or otherwise interfere with this substantial asset, but it is something which I should take account of in making my award. The wife's suggestion is that I award her maintenance of US\$1000 per month for a period of eight years to cover her entitlement to a share



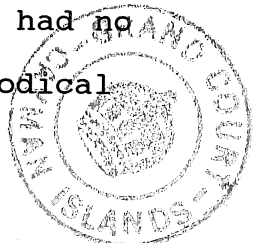
that asset which she has assisted her husband to accumulate over the years. The husband argues for a clean break.

The wife has worked for Kirkconnell Brothers for the last twelve years and is now a Supervisor earning \$3033. per month. Her husband's contention that the wife is a highly regarded and secure employee was not disputed.

The husband has taken on a new partner who has three children. He lives with her in rented accommodation but wishes to start a home of his own. Nothing has been said of the wife's prospects of forming a new partnership in life. Certainly there is no suggestion that she has already done so and at 52 her prospects of so doing must be weaker than those of her younger husband .

Both parties are in secure and remunerative employment and there is no reason why the court should not attempt to provide a "clean break" between them; a clean break is both possible and desirable.

The husband is content for the wife to have the former matrimonial home and the adjoining lot which provides her with comfortable mortgage-free accommodation. It also provides her with almost half of the capital assets if one ignores the capital value of the husband's pension plan with Cable and Wireless. It is this latter asset which makes the wife claim a further capital sum and periodical payments for a period of years. True it is that the wife has had no similar pension provision made for her, but her claim to periodical



payments ignores the fact that if one takes the traditional starting point of one third, the wife's income is substantially more than one third of the joint income of the parties. There is the added factor that the husband will have the expense of setting up a new household for himself.

Taking everything into consideration and doing the best I can, I will provide a clean break for the parties by ordering the transfer of the former matrimonial home and the adjoining lot (ie. Lower Valley Block 28B parcels 359 and 360) free from encumbrance to the wife. Further I order transfer of the proceeds of the Certificate of Deposit with Barclays Bank of US\$36709 to the wife on its maturity date.

Each party will bear his own costs.

Dated this 13th day of June 1995.



A handwritten signature in cursive script, appearing to read "D. Schofield".

D. Schofield

Judge