



**THE CAYMAN ISLANDS COURT OF APPEAL  
APPEAL FROM THE GRAND COURT OF THE CAYMAN ISLANDS**

**CICA (Civil) Appeal No. 018 of 2022  
(Formerly Cause No. FAM 0032 of 2019)**

**BETWEEN**

**VP**

**APPELLANT**

**-AND-**

**WP**

**RESPONDENT**

**Before:**

**The Rt Hon. Sir John Goldring, President  
The Rt Hon. Sir Alan Moses, Justice of Appeal  
The Rt Hon. Sir Jack Beatson, Justice of Appeal**

**Appearances:**

**Ms. Martha Rankine of MSR Attorneys for the Appellant  
Mr. Crister Brady of Brady Law for the Respondent**

**Heard:**

**13 September 2023**

**Judgment delivered:**

**22 September 2023**

**JUDGMENT**

**MOSES JA**

1. This is an appeal by leave of the Hon Madam Justice Richards KC against her judgment dated 14 February 2020.
2. The parties had been married for forty-two years when they divorced in 2019. There was a dispute as to whether the former matrimonial home, Registration Section, Lower Valley Block 38B Parcel 372 was a matrimonial asset and whether, if it was, the parties were each entitled to one half of the equity.

3. After considering the evidence of both the wife, now the appellant, and the husband, the respondent, the judge concluded that the former matrimonial home was a matrimonial asset and that both husband and wife were entitled to one half share in the equity in the property.
4. The appellant had contended that the matrimonial home should not be considered a matrimonial asset because she had bought the land while her husband was in prison between 1982 and 1985. There were thereafter periods of separation. The house was acquired, she says by her own industry as a clerical officer and part-time janitor. Her husband's contributions were sporadic and decreased in amount and consistency. The house was registered in her name and her husband had waived any entitlement to it, and spent money on property he had inherited in Jamaica where his parents had lived rather than contributing.
5. The Judge set out the wife's and husband's evidence and arguments. She concluded:

“From all the evidence, it is undoubtedly the case that the home, they purchased with an initial down payment by the wife was placed into the melting pot of the marriage. This was the family home for some 23 years. While the husband made no direct payments towards the mortgage, from the wife's own account, his financial contributions were integral to the financial stability of the household. The clear inference from the wife's written and oral evidence is that she would not have been able to pay her other bills had there not been financial contribution from the husband. I believe the husband in his evidence in part because he is supported by the wife's own account. She could have chosen to put the monies received from him towards the mortgage. He did not as he said “dictate to her” how to spend the money. ([87])”

“There is every indication that the parties pooled what little resources they had. After the purchase of the land, the construction of the home took place over a period of years during which time the husband was contributing to the household. He co-signed on the construction loan, thus assuming some responsibility for it. This must have been because the parties contemplated that this was their family home and that he was an equal partner in the building project. This is a significant factor in indicating the intention of the parties. The fact that he left it to the wife to spend the money which she gave to her, however she wished, rather than making direct payments towards the loan does not in my view detract from this.” [88].

6. She continued:

“Given all the circumstances, including that this was the matrimonial home, which had a central place in the marriage, and that it appears that the construction and maintenance of the home was the common endeavour of the parties, this property is a matrimonial asset.” [89]

7. The judge went on to consider whether there were any good reasons for departing from the yardstick of equality. She said:

“I have considered whether there are circumstances of such a nature that there is a proper and clear basis to depart from the yardstick of equality in this case. In this regard, I have considered the fact that the wife made the initial down payment at a time when the husband would have been unable to contribute because of his incarceration. I have noted that the level of the down payment was not extensive. This is not a case where one party personally paid the whole or a significant portion of the acquisition or construction costs of the property such that it would be inequitable to disregard it. I have also noted that this was the start of the project which continued over time. I have considered the wife’s complaints, some of which I accept as truthful, that the husband could have contributed more. However, I do not think that it is possible to try to measure and weigh every dollar of contribution to such a nicety such that one is able to arrive at an approximate much less a mathematical calculation. Indeed, I consider that may well be unwise to do so, particularly looking through the lens of the past and then the absence of documents and records. I’m guided by the approach McMillan J, in the cited case, (*Millwood v Seymour -Ebanks*, referred to at [79]-[84]) that what one is seeking to discern is the shared intention to parties with respect to the particular property.[90]

Having considered the length of the marriage, the pooling of the couples’ resources albeit in an indirect way, the cosigning of the construction loan, the regularity of the indirect contributions of the husband, the fact that those contributions were used to fill a shortfall in the wife’s income, the contributions of labour by the husband over the years, and the absence of any exceptional circumstances, there is in my view, no good reason to depart from the yardstick of equality.[91]

I conclude on this aspect that each party is entitled to ½ share in the equity in this property.[92]”

8. The judge considered the well-known authorities both here and in the United Kingdom such as *White v White* [2000] UKHL 54 and [2001] 1 AC 596 and *McTaggart v McTaggart* [2011] (2) CILR 366]. She set out the relevant principles. She did not misdirect herself as to those well-established principles. It is suggested that she misapplied them.
9. The grounds of appeal, re-iterated in oral argument, raised the same factual points that were advanced in argument before the judge, who dealt with every point advanced by the wife. It is not and could not be suggested that she missed anything. Further points were raised before this court, such as whether the husband had waived his interest in the home and whether his property should be considered part of the matrimonial assets. Neither were raised in the Grounds of Appeal. Both were dealt with by the judge. All of these points were matters of fact, and cannot found any arguable ground of appeal.
10. The issue of whether the house was a matrimonial asset was a factual issue. The issue as to whether the equity was to be shared half and half was a factual issue.
11. The grounds advanced amount to no more than an attempt to re-argue the facts. None of the submissions came anywhere near establishing that the judge reached factual conclusions which she was not entitled to reach.
12. We can give a flavour of the grounds to demonstrate the impermissible attempt to raise factual arguments which the judge had rejected. Under Ground 1 it is said on behalf of the appellant:

“We further submit that it is manifestly unjust that the Appellant being the major financial contributor to the household during a 34 year marriage, is awarded the same proportion of the assets as the Respondent whose financial contributions were inconsistent, inadequate, and at times, nothing for more than ten years of the marriage.”

13. Under Ground 2 it is argued that the judge failed to consider the exceptional circumstances for departing from the yardstick of equality:

“The learned judge placed undue weight on the Respondent’s verbal testimony regarding his current financial contributions, and failed to give effect to or sufficient weight to appropriate case law or authorities of the Grand Court or Court of appeal, and all the facts of the case.”

14. The conclusions reached by the judge were those she was entitled to reach. The weight she gave to the facts she found was a matter for her. Any appeal which challenges the weight a judge accords to facts she finds is, generally, doomed to failure. No such argument ought properly to be advanced. We have set out at some length some of her significant findings. We have done so because there is no point whatever in the Court of Appeal re-iterating those factual findings in words of their own. The judge's words speak for themselves and are not improved by paraphrase or repetition in words of an appellate court.
15. We have recalled that the judge gave leave to appeal. She gave no reasons for doing so. That was her only error. There was no basis for granting leave because no arguable point was advanced in the grounds or before us orally. Public money has been wasted on an appeal which should never have been pursued.
16. No order as to costs.

**Beatson JA**

17. I agree.

**Goldring JA (President)**

18. I also agree.