This Judgment was delivered in private, but the Judge hereby gives leave for it to be published.

Neutral Citation Number: [2026] CIGC (Fam) 1

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FAMILY DIVISION

CAUSE NO: FAM 18 OF 2017

BETWEEN:

RD

PETITIONER

AND:

YY

RESPONDENT

Appearances:	**Ms. Emma Pearce from Travers Thorp Alberga for the Petitioner**
	Mr. Phillip Blatchly and Ms. Lynne McDonagh from KSG Attorneys for the Respondent
Before:	**Hon. Mr. Justice Richard Williams**
Heard:	**On the papers**
Written submissions filed:	**30 September 2025**
Judge's communication about expert:	**10 October 2025**
Parties' reply about expert:	**30 October 2025**
Date of Circulation of Draft Judgment:	**9 January 2026**
Date of Judgment:	**20 January 2026**

Financial provision - Ancillary relief - Valuation of business remitted to the Grand Court from the Court of Appeal.

JUDGMENT

Re-issued with correction under the slip rule to paragraphs 6 and 58 as a result of the Court being provided on 18 March 2026 with the Reissued Judgment of the Court of Appeal in [2025] CICA (Civ) 4 digitally signed on 7 April 2025.

THE PARTIES

1. This Judgment is in ancillary relief claims made by RD, the Petitioner husband, and YY, the Respondent wife.

2. I hope that the parties will not be offended if I hereafter refer to them, for convenience, as the husband and the wife.

THE PROCEDURAL BACKGROUND

(i) The Ancillary Relief Judgment

3. On 2 May 2023 my detailed Judgment relating to the final ancillary relief hearing was delivered ("the Judgment"). Corrections were made to the Judgment on 16 June 2023 and 19 July 2023. The order that emanated from the Judgment was made on 1 September 2023 ("the Order"). I do not intend to set out the content of the Judgment in great detail herein. However, this ruling should be read in the context of the background set out in the Judgment.

(ii) The Wife's appeal

4. The Respondent appealed my order, and the appeal was allowed in part. The need for this present Judgment emanates from my incorrect finding that a company called Buffa was not a matrimonial asset. The husband owns 50% of the company. The company was mainly used to buy, develop and sell subdivided land. The Court of Appeal, at paragraphs 130 and 131 in its judgment dated 13 February 2025 stated in relation to Buffa:

> *"130… The company was established during the marriage. The husband, as the judge found, worked 'hands-on' on the project for extended periods of time. The profit was earned from work done during the marriage. In my view, what was done by Buffa was the product of matrimonial endeavour. Even if the work was to some extent funded by R&R, which in the view of the judge was a non-matrimonial source, that does not seem to me to affect the status of Buffa as matrimonial. As Mr Blatchley submitted, the loan would be reflected in the balance sheet of Buffa as would any loan from any source. (Although I have concluded that R&R was partly matrimonial, it would seem that its loan to Buffa came before R&R became matrimonial Sed).*
>
> *131. In the result, the wife was entitled to 50% of the husband's interest in Buffa.*
>
> *132. As I have indicated, there was a substantial difference between the husband's and the wife's valuation of his share of Buffa. He submitted it was worth US$482,456 as against*

her valuation of US$3,849,873. The judge's findings do not enable this dispute to be resolved."

5. Later in the Judgment under the heading, *"What should now happen"* the Court of Appeal stated:

"140. This case has already taken disproportionately long and incurred substantial costs. I have considered whether it would be possible to avoid remitting the case to the judge in order to value the wife's share of the husband's interest in Buffa. Regretfully, in the absence of any agreement between the parties, I have concluded it would not."

(iii) Directions of Court of Appeal concerning the procedure for Grand Court determination of the remitted matter

6. The Court of Appeal directed:

".. , I would remit the case to the judge with the indication that it would be appropriate and proportionate that:

(i) He values the husband's interest in Buffa solely on the basis of the evidence previously before him: that in other words, neither party be permitted to submit any fresh evidence.

(ii) .....

(iii) The judge thereafter issues a further order reflecting the decision of this court, to the effect that:

(a) The value of the matrimonial business assets be increased by the value of the husband's interest in R&R, namely US$3,073,451, in respect of which the wife be awarded 25%, namely, US$768,362; and
(b) Having determined the value of the husband's interest in Buffa, the matrimonial business assets be increased by that sum, in respect of which the wife be awarded 50%.

(iv) Following the judge's decision, the question of the costs of the remission to the judge be remitted by him to this court for consideration as part of the costs of the appeal.

141 ....

142. To the extent and for the reasons set out, I would allow this appeal and remit the case to the judge on the limited basis indicated."

7. At paragraph 114 of the Judgment of the Court of Appeal stated that, in relation to the determination of the matter being remitted back to me, *"There be no oral argument: the argument before the judge be limited to a skeleton argument of no more than 12 pages from each party, font size 12."*

Filings from the Parties for the Grand Court's consideration of the remitted matter

8. The husband has filed 12-page Written Submissions. The wife has filed 10-page Written Submissions. The parties invited the Court to consider the original trial bundle was placed before it and, although not directed to do so by the Court of Appeal, they felt that a copy of the 252-page Appeal Bundle should be provided to me. The parties also provided the Authorities Bundle prepared for the Appeal which contains 34 cases, totalling 845 pages. The wife filed an Authorities Bundle in support of the contentions being made concerning the Buffa valuation which contained three cases totalling 67 pages. A Supplemental Bundle was also provided which contains the husband's 78 page Closing Written Submissions as well as the wife's 112 page Closing Written Submissions, both made in relation to the ancillary relief hearing. Rather confusingly in the Preliminary Documents Section of the Supplemental Bundle a number of documents appear which are not listed in the description in the index but are filed under the description Wife's Closing Submissions. Those documents appear to be (i) one page of the Answer to the Petition [A193], (ii) four pages from an unidentified affidavit of the husband [A194-A197], (iii) one page from an Affidavit sworn by the wife on 10 September 2017 [A198], (iv) one page for an Affidavit of the husband sworn on 10 September 2017 [A199], (v) two pages from an unidentified affidavit of the wife [A200-A201], (vi) 10 pages from the husband's 14th Affidavit [A202-211], (vii) five pages from an unidentified affidavit of the wife [A212-216], (viii) two pages from the husband's 17th Affidavit [A217-A218] and (ix) two pages from an unidentified affidavit of the husband [219-A220]. After the affidavits there are 233 pages of an indexed documentary evidence [A221-A454].

What the Grand Court must now determine as a consequence of the Court of Appeal's decision

9. I must now determine what the valuation of Buffa is. When I do this, I have regard to the evidence already filed, the earlier submissions made as well as arguments now before me. I do not feel bound by the disputed figures rather cursorily set out at paragraphs 247-250 in the Judgment, which were not findings. The husband contends that the valuation of Buffa is US$633,419 and that his share in it is US$316,710. The wife contends that the valuation of Buffa is US$8,725,865 and that, after

deducting $650,000 for the profit agreed to have been taken by the husband[1], the husband's share in it is US$3,712,832. As a result of the Court of Appeal's ruling, if the husband's valuation is the correct one, then he will need to pay the wife US$158,355. However, if the wife's valuation is the correct one, on the submissions made by the parties post the Appeal Judgment, the payment from the husband will be $1,856,416.

Buffa Ltd - Details about the background of Buffa set out in the Judgment

10. Buffa Ltd was established in 2010. The husband owns 50% percent of the company and Mr. Renee Hislop owns the other 50%. Mr. William Culbert, who was a Director in some of the other business entities considered in the ancillary relief proceedings, had no involvement in Buffa[2]. It is agreed that Buffa was established with the proceeds of a US$2.5million loan from R & R. He said that Buffa Ltd was set up to buy, develop and sell after subdivision a large piece of land. He said that Buffa purchased a parcel of land in 2013 using that loan and sold 39 lots between 2015 and 2019. The husband contended that US$650,000 of the loan had been repaid and that US$1.85million was still owing. He stated that, since to call in this loan would place Buffa in difficulty, R & R was prepared to wait for the loan repayment in the sum of US$1million from the sale of the Grand Caymanian and from capital appreciation from three unsold lots. He then said that the cost for the lots of land and development was around US$11million and that the sales realised about $14.5 million gross and $13.1 million net after commissions. The husband states that a loan of US$1 million was made to GCL, but in the GCL Company Value Schedule he put the figure at $650,000. As set out at paragraph 245 in the Judgment, I found that the husband had failed to satisfy the Court about the existence of a Buffa loan to GCL. I made that finding because his evidence was confusing concerning this purported loan and was less clear than that which he relied upon in relation to the R & R loan.

---

[1] The wife says that $650,000 should be the figure for the element of the profit that has been spent or accounted for as it is the only one supported by evidence produced by the husband. Namely proceeds from 12C483 land sale to GCL $150,000.00 - (in 2014, the husband took a deposit for $150,000 for parcel 12C 483 and inserted it to GCL) - Cheque 68 $500,000 - The total sum of $500,000 is deposited into the husband's personal account at RBC on 13 January 2017. These funds were used as a loan payment to account 3316196 and the balance of $350,000 was used to secure a term deposit that the husband had declared at the start of trial he had broken to pay his legal fees. The wife accepts that, of the profit made, the husband has received $650,000 and this should reduce his share of the unaccounted-for profit that she says is to be inferred as being available.

[2] That was confirmed by Mr Culbert at the end of his cross-examination and at paragraph 4 of his affidavit sworn on 23 August 2021.

11. At the ancillary relief hearing the wife characterised Buffa Ltd as being a one venture company, which purchased the large piece of land in late 2011 (not 2013) for US$2.5 million. She accepted that the company developed and subdivided the land and sold 39 of the resulting lots of land, but she said that this was between March 2016 and March 2018. The wife stated that, once subdivision and planning were in place, between October 2014 and March 2016 Buffa borrowed a total of $5,052,761.79 from Butterfield Bank. The wife stated that loan was fully paid off by 2 August 2016 from the proceeds from the land sales and agrees that Buffa retained three of the parcels.

Expert evidence concerning the valuation of Buffa

12. In the Judgment I set out the history and my concerns related to the failure of the parties, in particular the wife, to provide expert evidence which would have greatly assisted the Court with the complex decisions that it was tasked to make in relation to the valuation of the businesses.

13. On 14 November 2018, only six days before the final hearing date[3], the wife issued a wide-ranging Summons in which she sought orders for disclosure and to instruct an expert to carry out a valuation of the GCL company accounts. In or around 21 November 2018 the parties were directed to disclose bank statements for the period of 1 February 2017 to the date of that hearing for accounts in which they had an interest, and which had not already been provided. The parties were also asked by me to consider whether they should instruct an expert to review the financial information that was already available about the companies. The 17 December 2018 hearing did not proceed.

14. On 10 August 2018, the husband filed a Summons for the Court to make orders pursuant to s.4 Confidential Relationships Preservation Act (2015 Revision) ("CRPA") and that Summons was issued with a 15 January 2019 hearing date. At the January hearing, it was decided that it would be better for the disclosure issues to be heard by Carter J (Actg), as there was a dispute about what she had previously ordered. The s.4 CRPA Summons could not be heard because it had not been served on the Attorney General. There was to be an arranged inspection of corporate documents, and the wife could make any amended requests.

15. The case then went dormant for around five months due to the parties' inaction. The husband filed a wide-ranging Summons on 11 June 2019 in which he requested that the s.4 CRPA Summons be

[3] The Summons was listed for 17 December 2018 which resulted in the Court having to vacate a final ancillary relief hearing date for the third time.

dealt with. On 19 June 2019, Richards J adjourned consideration of that part of the Summons to a future date. She directed the parties to attend mediation. The case came on before this Court on 6 September 2019 for the Court to deal with the parts of the Summons which Richards J had adjourned for later consideration. At that hearing, I stated in relation to the wider ancillary relief issues that:

> *"They all revolve around disclosure issues which both parties have in relation to the other party. They (are) the same issues the parties have been raising for over two years and which are the subject of a number of court orders.*
>
> *Unfortunately, the time may have come for there not to be general disclosure orders, but a protracted disclosure hearing going through line-items and determining about the relevancy of certain disclosure and then, if it is relevant, ordering that specific disclosure be given.*
>
> *An additional factor is that at that hearing which may be a three-day hearing at least having regard to the issues of the parties now raising today, if the Court directs certain disclosure from the husband which he feels is not disclosure from him, but from the company, and if the company objects to that then the (company) will then at that stage need to make an application under the confidentiality provisions and follow the appropriate procedure in relation to that. It should be made by the company (and it) should be served on the Attorney General.*
>
> *Having regard to the issues re the children I am not going to give leave for any disclosure to be set down at this time because I need to have the children issues are* (sic.) *resolved finally, before I determine what disclosure may or may not be necessary."*

16. At a mention hearing on 28 November 2019 directions were given to a final hearing on the first date after 17 February 2020 as well as for a 2-day disclosure hearing to be held on the first available date after 3 February 2020. However, the case again went dormant and on my own motion a Notice of Hearing containing a mention hearing date for 17 September 2020 was then issued on 9 September 2020. At the hearing, the Court directed that any Replies to a Request for Further and Better Particulars be extended to 9 October 2020. Upon the wife's application, the parties were given leave to jointly instruct an expert (an accountant) to report on what disclosure may be required and the potential scope of the marital estate, particularly in relation to the companies.

17. Provision was made for a disclosure hearing (if one was required by either party) to be listed on the first available date after the receipt of the expert's report and for the parties to fix a final ancillary relief hearing with a realistic time estimate. The Court of Appeal noted at paragraph 12 in their Ruling that I had, on 17 September 2020, *"sensibly"* ordered that an expert accountant should report on the potential scope of the marital estate.

18. As the parties had again changed their attorneys in January 2021 the case had to be re-managed. At the hearing on 4 March 2021, the Court timetabled the matter to a three-week ancillary relief hearing and directed that there be a pre-trial review on 22 April 2021. Although the wife stated at the final ancillary relief hearing that this matter *"was complicated by the fact that the husband has significant interests in a number of businesses,"* she indicated at the March 2021 hearing that she no longer sought an expert assessment to be conducted by a forensic accountant to value the companies[4] and stated that she was producing and relying upon a quantity of Land Registry documents which she contended would assist with determining the value of the companies that the husband had an interest in. In the Judgment I commented that it appeared that the wife had made that decision as she did not see a need to ascribe an underlying value to the shares of the companies or to assess the value of any intangible assets. Despite the clear direction given by me in September 2020, Counsel for the wife stated in his Written Closing Submissions:

> *"In light of the struggles faced by (the wife) to obtain discovery, it is difficult to see how anything other than a forensic analyst could have penetrated the financial workings of the MCR Group. That was never an option on the table and would have been prohibitively expensive for the parties and would no doubt have been frustrated by (the husband)."*

The wife contended that the correct approach was to undertake a balance sheet exercise of adding the real assets (cash and land) and subtracting any liabilities. Although the husband stated that the wife's proposed approach that the Court should reach valuations after her placing documents before witnesses and cross-examining them was an *"inappropriate and unsafe exercise for the court to conduct,"* he did not push for the forensic analysis to be carried out by an expert due to his view that there was no need for the Court to fix a value for the majority of the companies (save for GCL) as they were non-matrimonial.

[4] The husband agreed with her taking this course.

19. At the 22 April 2021 hearing both parties indicated that, in relation to outstanding issues about disclosure, if either party choose not to provide appropriate disclosure, the other party may invite the Court to draw an adverse inference as to the level of assets at the final hearing. The wife did not highlight what disclosure she felt was missing from the husband at the hearing and no orders were sought by her in that regard. I am satisfied that the Court provided the parties with ample opportunity to obtain appropriate disclosure, whether that be by means of listing disclosure hearings or by agreeing to the mechanism arising from the request for expert evidence. I still hold the view that the parties failed to properly uptake those opportunities. That may have happened due to their changes in legal representation during the proceedings, and the "*shifting sands*" of their approach (especially of the wife) to litigating proceedings and to the arguments being made (real clarity only being given at the ancillary relief hearing in August 2021, 4½ years after the Petition had been filed) no doubt contributed to a failure to 'home in' in an organised fashion on what proportionate and relevant disclosure about the companies (including Buffa) was required and the method to be adopted for obtaining that. This case was characterised by unstructured and wide-ranging disclosure requests (including for material already provided) and resulted in voluminous and often disproportionately irrelevant disclosure being sought and given. It is a shame that timely focus was not concentrated on some of the core disclosure that arguably would have been more helpful when the Court suggested and was offering suitable mechanisms for doing that.

20. At paragraph 13 in the Court of Appeal Ruling they repeated parts of my comments found in paragraphs 30 to 31 in the judgement, where I stated:

> *"30. When attempting to deal with the issues and very different positions taken by the parties concerning the status and the valuations of the companies and the difficulties that have been caused to this Court in the absence of any assistance that would clearly have been provided by a report following a forensic review conducted by an instructed accountant, it is regrettable that the wife did not pursue the instruction of the expert.*
>
> *31. In circumstances in which the husband appears to have been willing to cooperate with such an appointment, I do not agree with the wife that there was no option but to depart from that approach. If the husband had not cooperated in a manner that an expert would have reasonably expected or required to enable him to carry out his assessment, even where limited companies are involved, then the accountant would have been able to report that fact and the Court could have taken that into account. The expert may also have greatly assisted in ascertaining the sources of investment into the companies as well as the lending*

made by the companies. Such evidence may well have substantially reduced the length of the overly protracted hearing and helped the Court in the task of determining the value for each asset and whether it is to be regarded as matrimonial or not which has been a difficult and time consuming one for this Court to undertake."

21. The Court of Appeal at paragraphs 25 and paragraph 26 also recognised the difficulties I had faced when attempting to value assets when they referred to my comments made at paragraphs 208 and 200 in the judgment. The Court of Appeal noted:

"25. At [208] and [209] the judge made it plain how difficult it was to value the business assets. At [208] he said:

> *"when I review each business and when it is necessary, I will seek to determine the value of the relevant matrimonial businesses from the, at time, confusing and incomplete evidence placed before me."*

26. At [209] he referred to the 'shifting sands' of the presentations he had to face and work with since the outset of the proceedings."

22. At paragraphs 119-120 the Court of Appeal noted:

"119. While in all the circumstances one cannot but sympathise with the judge, it does seem to me a number of things went wrong.

120. First, without forensic accountancy evidence the endeavour of unravelling and following this complex web of companies became an inordinately difficult, time-consuming and as became apparent, disproportionate task. The wife was primarily to blame for this, the husband, however, is not without blame, the parties' conduct of their cases exasperated the position."

23. When I reviewed the Parties' Written Submissions filed on 30 September 2025[5], I noted the wide gap in the valuations provided by the parties which they had reached by adopting different approaches to the valuation process. Therefore, on 10 October 2025, I instructed my Personal Assistant to share my comments with the parties. In the resultant email sent by her part of the

[5] The Court was informed in an email sent to the Court by the husband's attorneys on 14 July 2025 that the date for filing of the Written Submissions sought by the wife was 31 July 2025 and that the date for filing sought by the wife was 30 September 2025. On 17 July 2025, after reading the parties' Written Submissions concerning the date for filing the Valuation Written Submissions, the filing date ordered for them was by or on 30 September 2025.

comments shared in paragraphs 7 and 8 above were touched on. In my shared comments set out in the email I stated:

> *"Following the appeal, I must now determine a valuation of BUFFA. The massive divide between the parties' valuations remains.*
>
> *I note that, in his submissions, the husband mentions that the wife has had the opportunity to obtain a joint expert valuation and declined to do so. I presume this refers to the time prior to the earlier AR hearing before me.*[6]
>
> *I have noted the current written submissions concerning the valuation methodology and where there is agreement and disagreement about the approach and figures to be used. Although the forensic exercise now required is not as wide ranging as before, and despite the Court of Appeal's observations about a flexible approach and that Court's specific direction that the present issue should be determined on the evidence that was before the Court at first instance, I still retain the view that expert input would likely still be of considerable value and assistance to this Court. I believe that such input would also have assisted the parties to understand what factors experts feel should be (taken) into account (and are not taken into account) when conducting such a valuation and it may have possibly aided them in sensible negotiations.*[7] *If a joint application had been made to me for such a valuation, I may well have considered that favourably.*
>
> *Therefore, before I start my review to enable me to prepare the judgment (which will take some time), I invite both parties to set out in* ***no more than 2 pages*** *why they feel that there to be little need/no merit in acquiring an expert forensic review. I intend to again comment in the Judgment about the difficulties that the absence of this expert input causes when attempting to determine the valuation."*

24. On 30 October 2025, the husband's attorneys sent an email in reply to the Court of on the behalf of both parties. In that email they stated:

> *"The Court of Appeal's judgment and order (in particular paragraph [140] (i)) expressly provides that: "He values the husband's interest in Buffa solely on the basis of the evidence previously before him: that in other words, neither party be permitted to submit any fresh evidence".*

[6] My emphasis by now underlining.
[7] My emphasis by now underlining.

> *In light of that direction, the parties consider that any views expressed regarding the possible instruction of a forensic expert, or the perceived utility of further expert evidence, could be taken as inconsistent with the terms of the Court of Appeal's order.*
>
> *Accordingly, the parties respectfully decline to offer further comment on that question so as to ensure full compliance with the appellate judgment and to facilitate the prompt determination of the remitted issue on the existing evidence."*

25. I, of course, accept that when the Court of Appeal remitted the matter back to me gave an *"indication"* that they believed it would be appropriate and proportionate for the valuation exercise to be carried out on the basis of the evidence previously before me. I surmise that this was partly done to assist this Court by making it clear to the parties that the Court of Appeal did not expect the parties to seek to file any additional evidence. However, I would hope that the Court of Appeal would not have objected to the Judge who again has the responsibility for making the determination on the remitted issue indicating to the parties (for the reasons set out at **paragraph 23 above**) that he might well be assisted in carrying out that exercise by what would now be more limited expert evidence (homed in on Buffa), especially as the Judge and the Court of Appeal had recognised that the absence of such evidence had previously made the Judge's task a much more onerous one.[8]

26. I note when reading the 30 October 2025 email response sent by the husband on behalf of both parties that, at paragraph 46 in the husband's Written Submissions (written before the Court's offer to the parties and observations about obtaining expert evidence made in the Court's 10 October 2025 communication), he seeks to criticise the wife's valuation methodology and highlights her declining to take up *"every opportunity"* to *"pursue expert evidence"*. I also note that the wife's response to that found at paragraph 15c(ii) in her Written Submissions indicates that an expert would not, when providing a valuation of Buffa, have traced profit proceeds relating to the sale of land between 2015-2019. I am not convinced that is necessarily correct. The expert would have been aware that the valuation he was being instructed to draft was to be one prepared for the purpose of ancillary relief proceedings and if, after speaking to the parties, he was of the view that a proper valuation for use in such proceedings may need to take into account the use of the proceeds from the historical land sales (for instance if there should be an add back to Buffa) then it would have been open to him to advise that such a tracing exercise, including analysing project costs and

[8] See paragraph 120 in the Court of Appeal's Judgment.

the company bank statements, would need to form a part of his assessment. In circumstances where the parties argue different approaches to reaching the total valuation figure, and where the difference between each parties' valuation of Buffa is so large (US$8,092,245)[9], instructing an expert would have been proportionate. Expert evidence should have assisted the parties when undertaking meaningful settlement negotiations which they should have embarked upon post the Appeal Judgment or, failing that, assisted them when they prepared their written submissions. In addition, the Court may well have found such homed-in expert evidence concentrating on the Buffa valuation to be of assistance when in determining (i) what is the appropriate method to adopt and what figures should be considered for reaching a value of Buffa for matrimonial proceedings (having regard to possible overlaps of Buffa with the other businesses) and (ii) what that valuation was on the figures set out in the evidence. However, I wish to make it clear that, although the wife previously abandoned the instruction of an expert valuer after directions had been given in relation to such evidence and the fact that neither party does not now wish to take up a further offered opportunity to obtain expert valuation evidence that could have again assisted the Court, I do not draw any adverse inferences arising about that in regard to either party. That said, I may comment, in circumstances where a party is seeking adverse inferences to be drawn for alleged non-disclosure, on how the obtaining of expert evidence might well have been a reasonable avenue for them to have pursued to obtain material information which they felt was lacking due to company documentation not being directly disclosed to them.

The parties' general observations/contentions about the valuation of the companies and Buffa made at the ancillary relief hearing

27. In their recent submissions the parties also rely upon their 2022 submissions made in the ancillary relief hearing. Therefore, I also remind myself of my comments in paragraphs 197-207 in the Judgment about what the parties were then saying about the valuation of the companies. The husband contended that his valuation for the companies' values was based on his evidence, which he contends is the best evidence as it was primarily grounded on information provided to him by the companies' accountant, reached by his own calculations and that Mr. Renee Hislop and Mr. William Culbert corroborated that. I noted in the Judgment that the company accountant did not provide any written or oral evidence on oath. He said that the value of each relevant company should not be directly off-set against the *"copper-bottomed assets such as property"* in equal

[9] US$3,396,122 difference in the parties' calculations about the husband's 50% interest in Buffa.

amounts, but instead the Court should conduct an evaluative approach in respect of contributions, to include the value that he has brought to the business having regard to the date of their establishment, the source of non-marital cash needed to establish it, his long standing business relationships and his personal endeavour in relation to it. The husband rightly contended that the wife's valuations, which he said had not been tested in evidence, were *"unsafe"* and *"speculative"* and they did not take into account debts or operating costs. He argued that the wife's assertion that he had conducted through himself or other companies $55M of land sales was misleading, as it did not take into account debt payments.

28. The husband highlighted in his earlier submissions that he had been willing for a joint accountant expert to be appointed to value the company and had partaken in the preparation of a joint letter of instruction, only for the wife to indicate that she no longer wished for that route to be taken. He was critical of the wife's approach to the valuation of the companies adopted at the hearing, namely of producing a large number of Land Registry documents at a very late stage of the proceedings rather than continuing with the instruction of the forensic accountant as previously sought by her and directed. He felt that her view that the valuations of companies could better be ascertained by cross-examination in relation to Land Registry documents and aerial photographs of plots of land was *"wholly unsatisfactory"*. He suggested that this, as well as his view that there had been (i) a lack of cooperation with preparing an asset schedule for the hearing; (ii) a failure by the wife to properly put her case to the husband about the valuation of the companies; and (iii) a failure to properly translate her evidence, *"suits her narrative to have confusion rather than clarity in this case"*.

29. The husband highlighted that the wife's valuations of his share in the companies were not put to the husband, Rene Hislop or William Culbert during the hearing and he adds that the wife disclosing what she contended the valuations to be for the first time in the updated schedule was an *"unsound approach"*.

30. The wife took issue with the husband's valuation of the relevant companies which she opined *"cannot be trusted"*. The wife submitted that the companies have been used to keep the husband's main assets *"away from judicial scrutiny"* and that his evidence in relation to their valuations has been amended upwards by him on various occasions, which he only did after she had been able to search for and obtain documentation that put into question his previous valuations. The wife

expresses a view that the husband had not been forthcoming in disclosing material addressing the issues surrounding his interests in and valuations of businesses. The husband's assets basis approach of valuing companies based on cash at bank and the value of real estate remaining less liabilities was not challenged by the wife, save for in relation to Buffa. She accepts that, save for the assets and if the land holdings were sold, those companies would have no value. The wife argued that the husband has not fairly disclosed the value of the cash and real estate owned by the companies and that is where the dispute between them arises concerning the businesses. She expressed a very different view as to how one should determine the valuation of Buffa, submitting that the *"pragmatic"* asset basis approach used when analysing the other companies would be the wrong one to as it would grossly undervalue the Buffa profits.

31. The wife contended that valuing the profit of Buffa involved adding up the sales (which she said were agreed to be $13,145,007 after real estate commissions) and then subtracting the costs of the sales. The wife felt that the Court should be capable of dealing with the disputes about the valuations of the companies from the provided details of the real estate owned and the produced valuation evidence. The wife questioned the limited and, in her view, selective disclosure of Buffa bank statements given by the husband, which she states did not explain where the proceeds of sale in excess of $13million had been expended leaving a balance of $346,919.09 in the bank account. She questioned the 50% share valuation of US$482,456.02 given by the husband, especially as his pre-trial position was that the three parcels of land were worth UD$500,000 each.

32. In her Written Submissions the wife contended that the husband's interest in Buffa should be valued at US$3,372,832.27. Following the hearing, a Buffa Company Valuation Schedule was filed by the wife, and it set out the wife's then valuation of $7,699,745.45 with the husband's interests being valued at $3,849,872.73.[10]

The parties' present positions and contentions about the valuation of Buffa

33. As set out above and below,[11] the husband contends that the valuation of Buffa is US$633,419.10, that his 50 per cent ownership interest is US$316,709.55 and that, following the Court of Appeal's order that the wife has a 50% share of his share in Buffa, she should receive US$158,354.74. He

[10] From which (i) $500,00 should be deducted for Cheque 68 which had been placed into their joint account and was accounted under personal assets and (ii) $1500 deposit from Roger Hanson should be deducted giving a *"remaining profit unaccounted for"* of $3,199,872.73.
[11] See **paragraphs 9 and 35.**

reaches that amount by again adopting a conventional net asset approach which involves totalling the current cash and assets and then deducting any established liabilities. It is argued that the determination of the value of Buffa must be done not by *"speculation or retrospective reconstruction"* but *"strictly on the evidence adduced at trial"* that the approach the husband advocates is *"a transparent, evidence-based valuation that reflects the company's true financial position and is consistent with both the trial findings and the Court of Appeal's instruction to avoid unnecessary further inquiry"* and that the US$316,709.55 figure *"represents the only-evidence based and judicially sustainable figure before the Court. It reflects both the financial reality of the company and the procedural constraints of this remitted hearing. As the Court of Appeal cautioned at para 121-122 [A487], this remitted hearing must avoid the kind of disproportionate factual inquiry that characterised the original proceedings and instead adopt a proportionate and flexible approach. The valuation achieves that, using verified material and logical deduction"*.

34. The husband rightly highlights and relies upon the following guidance given by Goldring P at paragraphs 121 and 122 in the Court of Appeal Judgment which he says, when considering proportionality and fairness, would be consistent with the adoption of a simple net assets methodology:

> *"…While I can well understand the judge's decision not to follow the more flexible approach adopted by Moylan J in CC v R, and approved in Hart v Hart, given the state of the evidence presented to him, it does seem to me that a more flexible approach would have been proportionate than the detailed and necessarily unsatisfactory line by line investigation which was carried out…What in the event took place was the sort of prolonged and disproportionate factual investigation is to be avoided.*
>
> *Third, as both parties accept, the judge should have valued the non-matrimonial asset… Having valued the whole asset base, the judge should have determined that his proposed award represented a fair outcome."*

35. The figures the husband now uses to reach the valuation amount are:

Description	Amount USD
Three lots valued at US$750,000	$2,250,000.00
Less 5 per cent reduction for costs of sale	-$112,500.00
Adjusted lot value	**$2,137,500.00**
Add bank balance	$345,919.09
Less loan	-$1,850,000.00
Total Net Value	**$633,419.10**

36. Thankfully the parties have agreed (i) the above Buffa Bank balance figure, (ii) the valuation of the remaining lots figure after the 5% costs of sale deduction, and (iii) the outstanding loan to R&R figure. The husband states that he has adopted the wife's own plot valuations and thereby has narrowed the dispute and avoided unnecessary litigation.

37. The dispute that the wife raises concerns how to approach and account for the profits she contends have arisen from the sale of 39 Lots of land between 2015 and 2019. The wife still has a very different view as to how one should determine the valuation of Buffa, submitting that the *"pragmatic"* asset basis approach used in the Judgment when analysing the other companies would be the wrong one to adopt for Buffa as it would grossly undervalue the Buffa profits. The wife states that much of the evidence of the profits is *"uncontroversial"* and that the husband is wrong to ignore it. The wife submits that the following is common ground between the parties and/or are unchallenged findings of fact which have a direct bearing on the valuation of Buffa:

a. the land and development costs totalled US$7,582,862, which was funded by:
   i. a loan from R&R of US$2.5m (of which US$1.85m remains outstanding[12]); and
   ii. US$5,052,762 by way of drawdowns on the Butterfield loan facility. This was originally thought to be drawings of US$8,658,540, but the Petitioner accepted in evidence and in his Written Closing Submissions[13] that US$3,605,778 was wrongly included as a cost of sale when it was actually a transfer of an existing, separate loan to a different bank account.

b. the net land sales generated revenue, net of commissions, of US$13,145,007.[14]

c. profit of US$650,000 had already been distributed to the husband.[15]

[12] See paragraph 145 in the Judgment.
[13] See paragraphs 148-152 in the husband's Written Closing Submissions.
[14] See paragraph 245 in the Judgment - *"The sales realised about $14.5M gross and $13.1M net after commissions"*. See also paragraph 100 in the husband's 14th Witness Statement.
[15] See paragraph 245 in the Judgment and paragraph164 in the husband's Written Closing Submissions.

38. The wife contends that the sale of the 39 plots of land generated profits of US$6,242,246. She illustrates how this figure is reached by carrying out the below calculation in a table found at paragraph 11 of her Written Submissions on Remittal:

- $13,145,007 net land sales[16] minus (i) $1,850,000 cost of land (owed to R&R) and (ii) $8,658,540 developmental costs = $2,636,467
- Add back $3,605,778 conceded error in costing = $6,242,246

39. Therefore, as set out above,[17] the wife now contends that the valuation of Buffa is US$8,725,665 and that the husband's 50% ownership interest is US$3,712,832. The wife's Written Submissions do not state, following the Court of Appeal's order that she has a 50% share of the husband's share in Buffa, whether the figure she should receive is US$1,856,416. The wife says that her valuation is *"the only sustainable outcome on the evidence"* and that the husband's presentation about the valuation *"should be rejected as incomplete and unreliable"*. The wife submits that the above contentions and figures are consistent and are not *"meaningfully different"* with the content and arguments found at paragraphs 146-172 in her written closing submissions prepared for the ancillary relief hearing. She stated that the Written Submissions were advanced in evidence and set out in the revised consolidated asset schedule.

40. The wife states, when highlighting the table exhibited to the husband's 14th Affidavit, that his assertion is that Buffa spent more developing than the value they received from the sales. The wife rightly highlights that the detailed schedules that were before the Court were prepared by the husband's attorney. She says they should be treated as being a part of his evidence and not elevated to the status of formal company accounts which the husband had said he could not provide in the absence of consent from the other company Directors. As already mentioned, I note that parts of the schedules have been found to have been inaccurate, for example the conceded double accounting figure of US$8,658,539 of borrowing wrongly included US$3,065,778. I accept that I must again approach the schedules prepared by one party with caution. That said, the wife's failure to properly engage with the preparation of an agreed schedule when compared with the time-consuming exercise that the husband had to embark upon to greatly assist the Court at the ancillary

[16] That is an agreed figure in the Schedule [A17].
[17] Paragraph 9 above.

hearing is one that makes her general criticism of the schedule an unattractive one to make. I note in that regard the following relevant parts extracted from paragraphs 33-35 in the Judgment:

> *"33. In his Affidavit sworn on 15 April 2021, the husband summarised his position in relation to the assets in the context of the above pre-marital historical background as follows:*
>
> > *"I also produce a schedule of all assets owned by me now. On occasion I have tried to identify assets that were previously owned by me where I consider they are likely to be relevant. A comprehensive account is not always possible as, throughout my career, which has spanned over 35 years, I have owned assets both personally and professionally. Most were acquired and/or sold prior to the marriage. In fact I undertook my largest land projects between 1988 and 2002. My late wife…passed in 2001… In November 2003 I met the Respondent and we married in May 2004 and most of the assets being discussed were either purchased prior to this date, or were purchased with the fruits of my marriage to my late wife, which were acquired long before this marriage. These assets are detailed in an attached spreadsheet, and I will explain my position in respect of each with detailed reference to that schedule in this Affidavit".*[18]
>
> *This summary, which is not accepted by the wife, forms the grounding of many of the husband's submissions (which are outlined later in this Judgment) about the valuation of the assets, the status of the assets and his disclosure…*
>
> *34. At the 22 April 2021 review hearing, both parties took an arguably more pragmatic view in relation to outstanding issues about disclosure, agreeing that should either party choose not to provide appropriate disclosure, an adverse inference may be drawn as to the level of assets at the final hearing. The wife did not highlight what disclosure she felt was missing from the husband at the hearing and no orders were sought by her in that regard. …….although not a course of action immediately embraced by the wife, the parties eventually agreed that there should be an agreed Joint Asset Schedule for the final three week hearing which was listed to commence on 3 August 2021.*[19] *Ms. Desrosiers is to be commended for recognising the need for such a schedule in this case and for being the person who undertook the task of drafting the same from the pre-existing disclosure evidence. If this task had been undertaken at an earlier stage by any of the previous attorneys on record, it would have brought far greater organisation to each party's (to that date unclear) approach and would have required them to better disclose what each party's*

[18] Paragraph 2 of the Affidavit.
[19] Notice of Hearing issued on 31 May 2021.

case was. There would have been greater focus on identifying the real issues and it would likely have prevented some of the repetitive requests for too wide disclosure.

35. I note that the husband, shortly before the April 2021 review hearing, commendably provided[20] comprehensive asset schedules, attempting to put in a more concise format the detail extracted from the provided disclosure dating back to 2017. There have since been some points of departure by the husband from the submitted figures set out therein in the updated schedule filed after the hearing. That said, I agree with the husband's Counsel's observation that, before the task undertaken to prepare that schedule and although there had been a great deal of disclosure given by the parties (mostly in a rather disorganised fashion), little time had been properly spent by either party to adequately review the material to decide what was truly relevant to the issues in the case. The result of this was repetitive requests for wide disclosure and a failure to set out in a way that was helpful to the Court (or to each other) what the actual assets might be."

41. In addition to relying upon her comments concerning the schedules, the wife now also challenges the husband's assertion that the outgoings spent on developing the plots of land nullified the value they received on sale due to the lack of provision by the husband of Buffa bank statements and of details of the costs which could have supported his assertion that any profit had been eroded. She argues that he has failed to explain what has happened to the profit of US$6,242,246.

42. The wife, when commenting upon the weight to be placed on the husband's evidence, also highlighted the concession of Rene Hislop about double accounting relating to a debt which Mr. Hislop then tried to explain by referring to a loan from Seven Mile Holdings, an entity which had ceased operation in 2015. She summarised as follows:

"Even if Buffa's bank balance was US$345,919.09 at 21 January 2021, that does not explain where the profit has gone. It would have been a simple exercise for the profit to have been distributed either to the shareholders, invested into new ventures or moved to a different bank account. The simple point is that this required a thorough explanation with corroborative paper evidence and yet nothing was provided. It was entirely within the Petitioner's gift to do so and the court is permitted to draw an adverse inference from his failure to do so."

[20] As an attachment to the husband's 14th Affidavit.

43. At the ancillary relief hearing the wife highlighted that the husband had felt able to disclose Buffa Bank statements dated up to 1 June 2016 but failed to provide any dated thereafter on the premise that Buffa would not agree to them being released. She submitted at that time that it was *"impossible"* for him to run an argument that the statements were not before the Court because the company objected to that disclosure when earlier statements had been produced. She stated that the provision of the statements would have assisted the Court when striving to determine how the proceeds of the land sales were utilised. She also stated at that time that the statements had been *"deliberately kept from the Court"* and that the Court should draw an inference either (i) there are additional funds in the Buffa bank account which have not been disclosed; or (ii) the husband has received shareholder dividends from Buffa which he has failed to disclose. In her recent submissions the wife stated that the husband's choosing to produce banks statements related to the period prior to 1 June 2016, but none thereafter, is *"instructive"* and that this partial disclosure, when it is being contended that the latter are not being produced due the reluctance of Co-Directors, *"speaks volumes"*. She presently submits that these non-produced bank statements and company accounts could have cleared up any confusion that exists and enabled a tracing exercise to have been conducted.

44. The wife submits that the husband's failure to provide the post 1 June 2016 bank statements and/or the Buffa accounts amount to non-disclosure. She contends that this material was not disclosed because *"it would have exposed the scale of the profit (which was finally exposed in evidence) and allowed it to be traced into another asset or venture"*. Relying upon *J v J* [1955] P 215, Sachs J, *Moher v Moher* [2019] EWCA Civ 1482, Moylan LJ and Lady Hale's dictum in *Prest v Petrodel* [2013] UKSC 34 at paragraph 85, the wife submits that in the circumstances of the present case the alleged non-disclosure, including but not restricted to the Buffa bank statements, entitles this Court to draw an adverse inference about the proceeds/profits from the sale of the plots and to find that her approach to valuation is the correct one.

45. The husband held at the ancillary relief hearing, and still retains, a different view concerning his disclosure. At the ancillary relief hearing, the husband stressed that he did not accept the contention that, because company accounts[21] have not been provided by him into evidence, an inference should

[21] It is not clear whether at the time he was referring to the financial accounts of the companies rather than the actual banks accounts, but I believe that he was likely referring to both. However, I note that at the time of the hearing that Buffa did not have any formal accounts (see paragraph 50 below).

be drawn that he is lying about the valuation. In his affidavit sworn on 9 August 2021[22] he comments as follows:

> *"5. Also attached are Company Annual Returns for all the companies relevant to these proceedings, which are filed in accordance and pursuant to Section 41 of the Companies law. They do not take matters any further as they do not set out any figures. Despite their irrelevance I included them anyway. I have not included Section 59(1) data as the 'proper books' only set out our day-to-day transactions, which do not help to value the companies and also identified 3rd parties. The company valuations are not some of our day-to-day transactions, but instead are an account of assets, minus liabilities and this has already been disclosed by me. There are already10,000+ pages of evidence in this case, much of which I do not believe (the wife) has read in detail, and to include all company transactional statement showing things would have resulted in unimaginable levels of disclosure, without taking the matter any further forward and simultaneously harming my business relationships.*
>
> *6. I simply do not have permission (from) my business partners to set out the day to day books. I have set out to the best of my knowledge and from records that I have, the net worth of these companies and I consider that once I have been able to go to the evidence produced last minute by (the wife) in evidence in chief, it will be clear that I'm providing an accurate picture in respect of the company valuations.*
>
> *7. I want to make clear that (the wife) and a lawyer has been invited to each respective company office to inspect the company records held. (the wife) and her lawyer attended on 23 April 2018 and produce nothing as a result of their enquiries. If there had been any unusual transactions (the wife) would have been able to put this in front of the court by way of agreement as contained in the relevant Order. It was later Ordered that there be a forensic analysis of accounts by an independent expert; (the wife) ultimately chose not to take this up. I believe this conduct is because (the wife) think she can gain more from court process if she presents an unbalanced picture about our assets whilst ignoring liabilities, rather than taking into account my evidence setting out the full picture. If there had been any attempt by (the wife's) legal team to properly review the evidence you put before the*

[22] An affidavit filed after the first two days of the hearing to address the content of the Affidavit sworn by Joel Bent (a Legal Assistant working at the wife's attorney) on 6 August 2021(on the second day of the ancillary relief hearing) and Affidavit sworn and belatedly filed by Joel Bent on 4 August 2021(after the first day of the ancillary relief hearing) which exhibited 317 pages of attachments (of which 70 relate to her submissions concerning Buffa).

Court last week (but which was available to her for a number of weeks in some instances), it would be apparent that the documents actually support my stated position, even though they are largely irrelevant to the current company valuations."

46. In light of the wife's contentions about Buffa, the husband points out that the wife is saying is that he and Mr. Hislop have either *"misappropriated"* or *"siphoned off millions of dollars"* or that Buffa holds other assets worth millions which have not been disclosed. He rightly contends that there is no evidence to substantiate such findings and says that no direct allegations of such conduct were put to him or Mr. Hislop. He stated that it was not unusual for a company and its Directors to be reluctant to provide financial information about its affairs to third parties. He states that Mr. Hislop's evidence was that the accounts could not be provided due to non-disclosure agreements with other shareholders and that it was the shareholders' decision. The husband contends that Mr. Hislop gave the impression that the reluctance to disclose sensitive company information directly to the wife rather than to the expert arose due to the personal nature of the matrimonial dispute. He stressed at the hearing that the Directors had agreed for company accounts to be inspected at their offices and that there should be an expert valuation. He highlighted that such an opportunity had been afforded to the wife which she eventually decided not to pursue after obtaining a direction from the Court that such an expert be appointed. Although the husband referred at the time to the company accountant providing a detailed breakdown of the company valuations at, this was simply one of a number of similar schedules provided and cannot be compared to a proper accounting properly prepared and presented by an accountant for court purposes.

47. As the husband rightly contends, opportunities had been provided to have a forensic analysis of Buffa which could have included project expenditures in relation to the plots of land. He said that these offers undermine the merits of any submission by the wife that the husband had sought to conceal Buffa's assets from her and the Court. Those opportunities included an offer made way back in April 2018 for her lawyers to examine company records at the company's registered office. The wife's then attorneys then took up that opportunity. The companies and their Directors agreed that a third-party expert could have access to company documentation for company valuation purposes, and the husband expended legal fees when pursuing the possible involvement of an expert. He rightly highlights that it was the wife who decided not to proceed with an expert, she being the party who had initially sought that, as she was content to rely on Land Registry documents instead of expert assessment to assist in determining the valuation of the companies, an

approach which the Court viewed as being an *"unhelpful"* one.[23] I again remind myself that although I must not draw any adverse inferences against the wife as to why she did not take up the offered opportunities, I am satisfied that her *"unhelpful"* approach weakens the wife's submission that adverse inferences should be drawn against the husband who felt unable to provide her the materials due to the other Directors' reluctance to show her the accounts.

48. The wife challenges the veracity of the husband's contention that the co-owners of the companies, Rene Hislop and William Culbert, invited the Respondent to attend the company offices to inspect the company files. She states that their *"witness statements"* explicitly permits inspection only in respect of *"payments it has made to the Applicant/Petitioner"* which would not enable the Respondent to analyse the inflow and outflow of what she contends to be missing profits of Buffa. Rene Hislop did state that,[24] and put that statement into context, as follows in his affidavit sworn on 26 September 2018:

> *"10. That the Companies object to the disclosure of the records requested on the basis that the same involves disclosing information relative to third parties who are not involved in these proceedings may jeopardise the Companies dealings with such entities should they become disclosed and open to public scrutiny.*
>
> *11. The Companies are quite willing to have its records in respect of any income or payments it has made to the Applicant/Petitioner examined at the Companies Registered Office by the Respondent's Attorneys-at -Law on the undertaking at the same be disclosed and sealed to the Court in the event such disclosure is considered germane to proceedings between the parties."*

49. At paragraph 20(c) in her Request for Further and Better particulars dated 18 March 2020, the wife's attorneys asked when the offered inspection set out at paragraph 51 above could take place. In the husband's Replies dated 14 October 2020 the wife was informed that the husband's new attorneys did not propose to take any further steps in relation to the CPRA application which the previous attorneys had issued and which had not been heard. In relation to the Request made they stated:

> *"It is understood that records in respect of any income or payments it is made to the*

[23] Paragraph 13 in the Court of Appeal's Judgment.
[24] Mr. Culbert said precisely the same at paragraphs 9-10 in his Affidavit sworn on 26 September 2018.

Petitioner may be examined at the Companies' Registered Office by the Respondent's Attorney at Law may be inspected at any time at the Respondent's Attorney convenience. The above inspection is agreed to notwithstanding that the respondent at the previous council have already undertaken an inspection of such company records at the registered office previously."

Then importantly they added:

"We would suggest that this is not necessary in light of the forensic accounting report."

The last comment shows that the husband and the co-owners remained content for access to sensitive financial documentation relating to the companies to be given to the forensic accountant, an arrangement which the wife herself had pushed for, but later decided not to pursue.

50. Mr. Hislop's evidence is consistent with the husband's position set out in paragraphs 45-46 above. He stated at paragraph 8 in the Affidavit sworn on 5 October 2021 that Buffa did not at that time have formal accounts. At paragraph 4 in that Affidavit, he confirmed that he and Mr. Culbert had not agreed for the company accounts for the entities to be disclosed but added:

"I wish to say that we have never denied timely and appropriate inspection of company documents, insofar as they relate to Choppy's[25] divorce only."

He then added at paragraph 6 in the Affidavit:

"I had understood that, following an inspection of the Company documents by (the wife) and her lawyers, the Court had ordered a formal valuation of the companies and the companies were anticipating that would happen. (The wife) never appears to have taken up that opportunity. I am very cautious as to why this approach hasn't been taken up and instead, I am receiving a request for inspection of documents and for copies to be taken of documents that go beyond Choppy's involvement and that contain sensitive third-party information. Especially when there appeared to be a more measured, planned and agreed way forward that was ultimately abandoned by (the wife) and her counsel."

[25] The husband's nickname is Choppy.

51. Mr. Culbert's evidence is also consistent, and he states at paragraph 7 in his Affidavit sworn on 23 August 2021:

> *"Whilst I am doing the best I can to assist with these queries, I do refer back to my first affidavit where it was set out the both myself and Rene Hislop feel uncomfortable about the private financial affairs of ourselves and third parties being produced into proceedings, particularly in Cayman, where business is often conducted on the basis of trust and reputation. We had already agreed for (the wife) to attend our offices and inspect the company information, which I understand that she has done. My understanding was that this had resolved matters and am rather troubled to learn that the detail of the company sales only are now being queried by transaction by transaction basis spanning a number of decades, which I am concerned simply paints a misleading and confusing picture."*

52. Although there may have been historical financial information about Buffa, if the production of which directly to the wife and her attorney had not been restricted by the co-owners for what are not unusual business confidentiality reasons, greater clarity many have been given to confirm or counter the husband's consistent assertion that the wife's approach to valuations has failed to take into account non-loan project costs, I do not draw the adverse inferences sought on behalf of the wife. I accept the husband's reasons why he was not able to provide the formal disclosure which the wife says she sought. The husband has provided a significant amount of wide-ranging financial disclosure. The unstructured manner in which disclosure was sought, often attributable to the change of approach being adopted when there was a change of attorneys retained by the wife, resulted in repetitive requests for disclosure (including some for disclosure already given) which resulted in a disproportionate amount of documentation being before the Court. When I make that comment, as I noted at the hearing, save for the very late disclosure of substantial documentary evidence exhibited to Mr. Bent's August 2021 Affidavits (evidence which went to the core of and gave clarity about the case concerning the company valuations that the wife was then arguing), the involvement of Mr. Kennedy at KSG brought a remarked more focused approach to the presentation of her case than had been seen previously.

53. Whether I was to draw inferences or not, the husband reiterates that the Court of Appeal has directed that the valuation of Buffa and his interest in it is to be valued solely on the evidence which was before the Grand Court at the ancillary relief hearing. As far back as the Schedule at [A17] the husband noted that the figures in the schedule *"only accounts for offsets against sale prices, which*

does not actually account for the cost of the works which were more than the amount of money loaned. These figures will likely result in a negative once expenditures are added". He also gives examples in the note of expenditure figures not included in the limited figures in the Schedule which including the moving of the road required by Government and the building of a new guard house. The husband says, and I accept, that the full project costs were not included in the Schedule as its purpose was to identify land sales, bank borrowings, and land costs.

54. He is correct in his submissions when he states that the wife is asking the Court to determine that no funds beyond loans covered project costs. I do not accept that would be a correct approach. If she is implying that the husband and his Co-Directors embezzled or hid company funds and lied under oath to defraud the wife in matrimonial proceedings that was put to them.

55. During cross-examination, Mr. Hislop, save for the US$3.6M double accounting figure, confirmed that *"the sales prices are 100% correct as are the borrowing figures".* He then added that *"that did not include what we inject from 7 Mile Holdings".* He then said that he could not comment on anything in the Schedule [A17] apart from the sales figures as it was not prepared by him or by Buffa's accountant. He said the wife's figure of around US$7.8M was not correct as it failed to take into account all the other expenses that he and the husband had put in. He said that they had spent a lot more than the agreed loan and then repeated that they had injected their own funds from the sale of the land by 7 Mile Holdings to fund Buffa. Although his oral evidence was given on 7 October 2021, I do recall that Mr. Hislop presented as an honest witness. When the double accounting issue was raised, he immediately recognised that was the case. Mr Hislop's written and oral evidence do not give the impression of him being a Director who is acting in collusion with and improperly with the husband in relation to Buffa's assets in order to reduce the wife's ancillary award. His reasoning for the company withholding consent for documentation to be provided directly to the wife and her attorney was not improper. I am satisfied he was able to recognise that there should be a mechanism for such information to be reviewed for the purposes of these proceedings and that he rightly and cooperatively agreed to a qualified expert having access to the relevant material. As already mentioned, if an instructed expert had deemed it relevant for his report which he would have known was required for divorce financial distribution proceedings, his assessment could have included a review of the project costs and dispersal of the proceeds of sale from the plots of land.

Conclusion

56. I am tasked by the Court of Appeal to value the husband's interest in Buffa solely on the basis of the evidence previously before me. In the absence of any need to obtain expert evidence that is what I must do. When I do that, I have carefully considered whether there should be adverse inferences to be drawn against the husband due to the disclosure issues raised by the wife. In the circumstances of this case, I have found that the making of such inferences would not be appropriate. I acknowledge that the husband has not been able to assist the Court with a detailed breakdown of where the proceeds of sale went. When reviewing the parties' evidence and the provided materials at the ancillary relief hearing and again now it is evident that his co-owners and he had a somewhat flexible approach to funding their various projects which included using/mixing proceeds from one project to assist in another. This informality may have arisen from the personal nature of their relationships with each other. Even if the husband's grasp of the actual figures was not as helpful as it might have been (the husband frequently said that he did not deal with such issues and that the Buffa accountant may be best placed in that regard), I am satisfied that the husband did sufficiently try to explain the position about the land sales and various projects, especially having regard to the context of the rather complex overlapping of the various companies as well as their personal resources. I accept that, in the absence of permission to disclose being given by his business partners, as set out from the best of his knowledge and from the records that he had access to provide a value of the various companies. An expert would have presumably offered some helpful insight which the parties were unable to do, including whether they were funds, in the present instance related to Buffa, that had been inappropriately distributed and used away from the company and which, as a result, should form part of a valuation of Buffa for the purposes of these proceedings.

57. Despite the wife's well-presented submissions made in writing by Mr. Blatchly, to determine the issue related to me by the Court of Appeal, I am satisfied that Buffa's true value should be determined in the same way that it was for the other companies, namely by its current net worth: cash plus assets minus liabilities. In the circumstances of this case, where no adverse inferences have been drawn, it would be wrong to depart from the approach to valuations commended by the Court of Appeal in its ruling and wrong to speculate in the absence of meaningful evidence to determine that there are sums from Buffa that have been misappropriated, hidden or used elsewhere by the husband and Mr. Hislop which should be added back to reach a valuation for Buffa.

58. Accordingly, on the basis of the evidence previously before which I have reconsidered and having regard to the Written Submissions and supporting authorities filed and noting the content of the appeal bundle:

(i) I value the husband's interest in Buffa to be US$316,709.55.

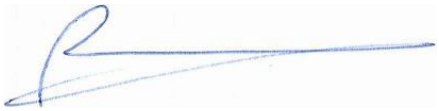
(ii) I issue an order that:

(a) the value of the matrimonial assets be increased by the value of the husband's interest in R&R, namely US$3,073,451 in respect of which the wife be awarded 25%, namely, US$768,362; and

(b) having determined the value of the husband's interest in Buffa to be US$316,709.55, the matrimonial assets be increased by that sum, in respect of which the wife be awarded 50%, namely US$158,354.74.

Legal Fees/Costs

59. Pursuant to the direction of the Court of Appeal, the question of the costs of the remission to the Grand Court are remitted by me to the Court of Appeal for consideration as part of the costs of the appeal.



Honourable Mr. Justice Richard Williams
JUDGE OF THE GRAND COURT