

1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **FAMILY DIVISION**

3 **CAUSE NO. FAM 201 OF 2014**

4 **BETWEEN:**

5 **AKS**

6 **Petitioner**

7 **AND**

8 **JS**

9 **Respondent**

10 **AND**

11 **RS & HS**

12 **Proposed Intervenors**

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15 **Appearances:**

Ms. Sheridan Brooks of Brooks & Brooks for the Petitioner
Mr. Waide DaCosta for the Respondent
Mr. Matthew Dors of Ritch & Conolly for the Proposed
Intervenors

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20 **Before:**

Hon. Justice Williams

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22 **Heard:**

3 February 2016

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24 **Draft Judgment**

25 **Circulated:**

5 February 2016

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27 **Date of Judgment:**

11 February 2016



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30 **HEADNOTE**

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32 *Family Law – divorce - financial provision - whether the Court has jurisdiction to permit a third*
33 *party to intervene in ancillary relief proceedings.*

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35 **JUDGMENT**

36 **The application**

37 1. I have before me a Summons dated 25 September 2015 filed by the Proposed
38 Intervenors, RS & HS, who are the father and mother of JS, the Respondent, (“the



1 husband"). In that Summons they seek an order permitting them to intervene in
2 the ancillary relief proceedings involving their son and his wife, AKS ("the
3 wife"). The husband supports that application and adopts the submissions made
4 by Mr. Dors on behalf of the Proposed Intervenors.

5

6 **Background**

7 2. The parties were married on 14 July 2007. There is one child of the marriage, a
8 son aged four years. The wife filed her Petition for Divorce on 23 September
9 2014. The husband filed his Answer and Cross-Petition on 20 October 2014. The
10 Cross-Petition was proved on 28 November 2014. It is a fairly short marriage.

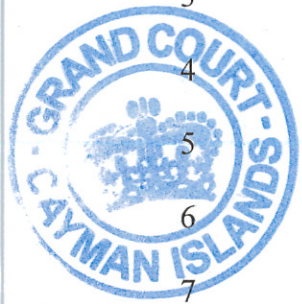
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12 3. The parties first appeared before the Court on 1 May 2015, when case
13 management directions were given to advance the ancillary relief application to
14 hearing. The Court was told that the Proposed Intervenors had invested around
15 CI\$350,000 into the former matrimonial home. The Court was informed that there
16 was an issue between the parties as to whether the sums from the Proposed
17 Intervenors were a gift or a loan, the wife saying it was the former. As a
18 consequence, my note from the hearing on the 1 May 2015 records:

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*"Judge indicates that consideration should be given to inviting the
20 parents to be joined as intervenors if it is argued by them that they
21 have a separate and discrete interest in the former matrimonial
22 home."*

23



1 4. The Proposed Intervenors have filed affidavit evidence in which they state that in
2 2008 the parties, who had until then been living with the wife's mother, purchased
3 an apartment in the Cayman Islands. The Proposed Intervenors indicated that the
4 parties purchased an apartment for CI\$299,000 plus stamp duty and that, as they
5 were unable to obtain a mortgage, they lent the parties \$285,000. The Proposed
6 Intervenors state that the loan was to be paid at the rate of CI\$1,070 per month.
7 They contend that by the winter of 2011 approximately 48 payments had been
8 made totalling CI\$62,597, leaving a balance on the loan of CI\$222,403. The
9 Proposed Intervenors indicated that in 2011 they agreed with the parties that they
10 would purchase a property in South Sound. The Proposed Intervenors offered to
11 invest in the purchase of the property and that they would convert the garage into
12 a separate apartment in which they could live. The Proposed Intervenors said that
13 to account for that area of the property they would treat CI\$154,000 of the
14 CI\$222,403 balance owing as their investment in the property. They indicated that
15 it was agreed that the balance of CI\$68,403 would be left outstanding and it
16 would be subject to later discussions. The Proposed Intervenors indicated that this
17 financial arrangement allowed the parties to purchase the home for CI\$630,000
18 with a mortgage of CI\$485,000. The Proposed Intervenors indicated that by
19 February 2013 the construction work on their apartment situated on the property
20 was completed and that they had invested approximately CI\$222,000 with some
21 additional sums for miscellaneous items. They said that their total investment
22 upon completion was CI\$376,000 plus miscellaneous items. The valuation of the



1 property is put in the region of CI\$975,000 and it is contended that the apartment
2 has added CI\$313,000 to the property's value, which is approximately 32% of its
3 total value.
4

5 5. The husband agrees with his parents' recollection in relation to the financial and
6 practical arrangements surrounding the properties set out in their affidavits. The
7 wife disagrees that there was an agreement and submits that any sums given were
8 a gift and that any agreement that may exist was reached between the Proposed
9 Intervenors and the husband and did not include her at all. The wife indicated that
10 she had offered, in order to resolve the issue expeditiously and to save costs, that
11 a payment of between CI\$120,000 to CI\$250,000 could be made to the Proposed
12 Intervenors by the parties to cover the sums they had expended on the
13 construction of the apartment on the South Sound property. The wife also
14 indicated that her parents had contributed about UK£40,000 into the parties' first
15 apartment in or around 2008.
16

17 6. I do not seek to review the merits of either party's case at this juncture. I have
18 outlined the above details to illustrate that there is a substantive issue concerning
19 a possible beneficial interest for the Proposed Intervenors in the former
20 matrimonial home which requires determination. Whether this is resolved within
21 the ancillary relief proceedings or within separate civil proceedings, I am satisfied
22 that the issue will have to be resolved before the Court is in a position to properly

1 exercise its duty under s.19 of the Matrimonial Causes Law (2005 Revision)
2 (“MCL”). I am fortified in reaching this conclusion by the observation of Wilson
3 J. in *T v T and Others* [1996] 2 FLR that the issues required to be resolved
4 involving the intervenor were “*directly relevant to the duty of enquiry*” that he
5 had under s.25 Matrimonial Causes Act 1973. I also am guided by Lord Justice
6 Brightman’s observation in *Edna Evelyn Tebbutt v Haydn Sandy Haynes-Susan*
7 *Haynes* [1981] 2 All E.R. 238 that:

8 *“It is fundamental to the section 24 jurisdiction that the judge*
9 *should know over the property he is entitled to exercise his*
10 *discretion. If there is a dispute between a respondent spouse and a*
11 *third party as to the ownership of a particular item of property*
12 *which stands in the respondent spouse’s name, that dispute must*
13 *be resolved before the judge can make an effective final order*
14 *under section 24. There are only two ways of resolving such a*
15 *dispute. Either the Family Division proceedings must be adjourned*
16 *pending the trial of the claim in other proceedings, or the dispute*
17 *must be decided in the section 24 proceedings by allowing the*
18 *third party to intervene.”*

19
20 **The Wife’s Position**

21 7. Ms. Brooks submits on behalf of the wife that the Grand Court does not have
22 jurisdiction to make an order permitting third parties to intervene in ancillary
23 relief proceedings.

24 8. Grand Court Rules (“GCR”) O.15, r.6(2) deals with the joinder of parties and
25 provides:



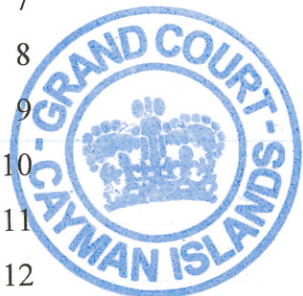
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“(2) Subject to the provisions of this rule, at any stage of the proceedings in any cause or matter the Court may in such terms as it thinks just and either of its own motion or on application

*...
(b) order any of the following persons to be added as a party, namely—*

(i) any person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in dispute in the cause or matter may be effectually and completely determined and adjudicated upon; or

(ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court would be just and convenient to determine as between him and that party as well as between the parties to the cause or matter.”



20 9. Ms. Brooks contends that O.15, r.6(2) does not apply to ancillary proceedings as
21 GCR O.1, r.2 provides:

“2 (1) Subject to the following provisions of this rule, these rules shall apply in relation to all proceedings in the Court.

(2)...

(3)...

(4)... Except for Orders 3 (Time), 4 (Assignment, Transfer and Consolidation of Proceedings), 5 (Mode of Beginning Proceedings), 38 Part II (Writs of Subpoena), 39 (Evidence by

28



1 *Deposition), 62 (Costs), 67 (Change of Attorney), 45-51*
2 *(Enforcement) and 52 (Committal) these rules shall not apply to*
3 *any proceedings which are –*

- 4 *(a) governed by the Matrimonial Causes Rules (2005 revision)*
5 *(c) -(d).....”*
6

7 10. Ms. Brooks also highlights in support of her contention that r.22 of the
8 Matrimonial Causes Rules (2003 Revision), as amended by the Matrimonial
9 Causes (Amendment) Rules, 2009 (“MCR”) under the heading “Application of
10 GCR’s” reiterates that the exemptions in GCR O.1, r.2(4) apply to all proceedings
11 under the MCL.

12
13 11. Ms. Brooks submits that the cases from England and Wales should not be applied
14 in the Cayman Islands due to differences between the respective legislation. It is
15 contended that the Courts in England and Wales have jurisdiction to order a third
16 party to join ancillary relief proceedings, despite the fact that Rules of the
17 Supreme Court (“RSC”) O.1, r.2(2) states that the RSC shall not have an effect in
18 proceedings governed by the Family Proceedings Rules 1991 (“FPR”), because
19 FPR r.1(3) provides that the RSC shall apply, with the necessary modifications to
20 family proceedings in the County Court and the High Court. Such a rule does not
21 exist in the Cayman Islands MCR.

22



1 **The Law**

2 12. It clear that the Courts in the Cayman Islands have in the past permitted third
3 parties to intervene in ancillary relief proceedings. In fact, during the hearing Ms.
4 Brooks indicated that she had represented an intervening party in such
5 proceedings where the application to join was not opposed by any party.

6

7 13. In the case of *Rodriguez v Ebanks and R.L. Ebanks (Intervening)* [2014 (1)
8 CILR 264], Chief Justice Smellie expressed a clear view that the Court had
9 jurisdiction to add a third party as intervenor to ancillary relief proceedings. In
10 that case the wife alleged in ancillary relief proceedings that she had an equitable
11 interest in the family property held by the husband's sister on constructive trust
12 for her and the husband. It appears that the sister, unopposed by the parties,
13 successfully applied to be joined to proceedings as she was submitting that the
14 Court should not make any ruling in relation to the property owned by her. The
15 Court determined that the issue concerning the beneficial interest should be tried
16 as a separate preliminary issue, but before the husband or the intervenor had filed
17 their final submissions in reply to the wife's submissions, the husband died. The
18 Chief Justice found that the Court could still continue to hear the preliminary
19 issues even though the husband had died. Ms. Brooks represented the husband in
20 that case, but informed this Court that she played no part in the hearing which
21 took place after her client had passed away, that she cannot recall there being any
22 submissions made to the Chief Justice concerning the Court's jurisdiction to join a



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third party in ancillary relief proceedings and that she was unaware of his judgment until it was shown to her this morning by Mr. Dors.

14. The Chief Justice set out the terms of O.15, r.6(b)(ii). He then said at paragraphs 71-72:

“71 So, notwithstanding that the proceedings were originally commenced as matrimonial proceedings and entirely in personam as between the parties to the marriage, a separate cause of action emerged into which the intervener was allowed to intervene in the exercise of the discretionary inherent jurisdiction of the court. ¹As discussed above, the objective was, in broad terms, the same as would guide the court in the issuance of third party proceedings—namely to prevent multiplicity of actions and to enable the court to determine disputes between all parties to them in one action and to prevent the same or substantially the same questions or issues being tried twice with possibly different results (see GCR, O.16, r.1(1)(c)).

72 I note of course that the GCR are expressly generally disappplied to matrimonial proceedings to the extent that they are governed by the Matrimonial Causes Rules (2003 Revision) (“MCR”) (see GCR, O.1, r.2(4)(a)). But that fact—particularly where the MCR do not purport to be categoric on the subject—may not be regarded as preventing the court, in the proper management of matrimonial proceedings, from resolving third party claims which affect the beneficial interests of the parties to the marriage—in this case by way of intervener proceedings. Nor, in my view, would the court be prevented from relying on the case

¹ My emphasis by underlining.

1 law upon which the RSC and GCR are based for guidance in the
2 exercise of the inherent jurisdiction. Nothing in the MCR addresses
3 the question of third party joinder or intervener proceedings in
4 circumstances like the present. (MCR, r.12 recognizes the
5 possibility of “further pleadings after a reply” to a petition and
6 r.17 recognizes that a co-respondent or other respondent may be
7 heard “on any question of damages.” This seems to follow from
8 r.9(1)(b), which states that, where a petition alleges that the other
9 party to the marriage “has been guilty of an improper association
10 other than adultery with a person named, the person shall be made
11 a respondent in the cause.” Rule 21 provides that the court shall
12 hear an application by an intervener who, under the Juveniles Law
13 1975 (now repealed and replaced by the Children Law) would be
14 entitled to make an application for provision for a child of the
15 marriage.).”
16



17 15. Ms. Brooks contends that the Chief Justice’s remarks are *Obiter* and that little
18 weight should be placed upon them, as she recalled that no submissions on the
19 point were received by him before he ordered the intervention and because the
20 intervention was ordered with the consent of the parties. Importantly, the Chief
21 Justice highlights at paragraph 42 that even if the parties agree to an order being
22 made, the Court must still have jurisdiction to enable it to make the order, stating:

23
24 “....as the jurisdiction of the court is not something that can be
25 bestowed or removed merely by the admissions in arguments of
26 parties to a dispute, the issue must be resolved.”
27

1 This means that the parties must have conceded that the Court had the
2 jurisdiction, if not at the time putting their minds as to whether it could be done
3 under GCR O.15, r.6, then at least under the inherent jurisdiction.

4
5 16. When considering the inherent jurisdiction of the Court I note with interest that

6 Note 15/6/10 of the White Book states:

7 *“In addition to the powers contained in this rule or under O.75,*
8 *r.17(1) the Court has an inherent jurisdiction to enable it to do*
9 *justice in particular cases to allow a person not a party to*
10 *intervene in proceedings if the effect of such proceedings has been,*
11 *or is likely to be, to cause such a person serious hardship,*
12 *difficulty or damage.”*

13
14 I also note that s.3 of the MCL provides that the Grand Court has:

15 *“all the powers of the court of Chancery in England necessary to*
16 *enable it to exercise the jurisdiction conferred upon it by the law”*

17
18 I do not accept Ms. Brooks’ submission that the inherent jurisdiction of the Court
19 could not be exercised in a case where proposed interveners can still bring
20 separate proceedings in relation to the alleged beneficial interest if unsuccessful in
21 an application to join ancillary relief proceedings. However, when considering
22 Note 15/6/10, although it may be appropriate for the Court to exercise its inherent
23 jurisdiction to permit a person to intervene to protect their interest, it is
24 questionable whether it would be appropriate to exercise it to join a reluctant

1 intervener. If O.15, r.6 applied, it would of course enable the Court to compel a
2 reluctant intervener to be joined if it felt it was necessary, just and convenient to
3 determine the issues at the same time.

4

5 17. In England and Wales s.24 of the Matrimonial Causes Act 1973 as amended by
6 the Matrimonial and Family Proceedings Act 1984 (“MCA”) provided the Court
7 with the jurisdiction to make an order for the sale of property specified in the
8 order. S.46A(6) was added to the 1973 Act with the s.24A power of sale by the
9 Matrimonial Homes and Property Act 1981. S.46A(6) ensures that, before an
10 order for sale is made in respect of property owned by the other spouse jointly
11 with a third party, the third party will be allowed an opportunity to make
12 representations with respect to the order. Anything then said by the third party
13 joint owner on the subject will be taken into account and is one of the
14 circumstances to which the Court has to have regard under s.25 MCA when
15 deciding what order to make. It is not a provision specifically requiring the Court
16 to allow an individual who jointly owns the property with a spouse to intervene as
17 a party, but simply to ensure that he has an opportunity to make representations. It
18 applies in only specific circumstances and it does not introduce into the legislation
19 a wide range of rights to third parties to intervene in ancillary relief proceedings.
20 Only certain third parties fall under s.24A(6) and it does not apply to a wide range
21 of ancillary relief orders that the Court can make. I do not accept Ms. Brooks’



1 submission that, as the MCL does not contain a similar provision, the English
2 cases should not be considered.

3
4 18. In England and Wales ever since *Tebbutt v Haynes* [1981] 2 All E.R. 238 the
5 Courts have recognised the convenience of permitting a third party, who asserts a
6 beneficial interest in property which is the subject of an application for ancillary
7 relief, to intervene rather than have to bring separate proceedings in the Civil
8 Division. Lord Denning stated that:

9 *“If an intervener comes in making a claim for the property, then it*
10 *is within the jurisdiction of the judge to decide on the validity of*
11 *the intervener’s claim. The judge ought to decide what are the*
12 *rights and interests of all the parties – not only of the intervener,*
13 *but of the husband and wife respectively – in the property. He can*
14 *only make an order for the transfer – to the wife – of property*
15 *which is the husband’s property. He cannot make an order for the*
16 *transfer to the wife of someone else’s interest. So – in order to*
17 *make an order under section 24 - it must be within the jurisdiction*
18 *of the judge to determine what are the various rights and interests*
19 *in the property – not only of husband and wife – but also of any*
20 *other persons who claim an interest.”*

21
22 19. In *Tebbutt* the Court was not dealing with a sale of the property, but a claim for a
23 transfer of the property between husband and wife in which a third party was
24 contending that they had a considerable interest. In that case the Court of Appeal



1 made no reference to the RSC, simply indicating that the third party “*was quite*
2 *rightly brought in as an intervener.*”

3

4 20. In *T v T and Others (Joinder of Third Parties)* [1996] 2 FLR Wilson J. joined a
5 reluctant third party (a Trustee) under r.6(2)(b) to the proceedings as he felt it
6 was necessary, just and convenient to determine all of the issues between the
7 existing parties and the third party at the same time.

8

9 21. In *Goldstone v Goldstone* [2011] EWCA Civ 39 Lord Justice Hughes stated at
10 paragraph 52 that the FPR apply because the proceedings were family
11 proceedings, and as a consequence any topic not covered by those Rules was
12 made good by the default application of the RSC which were expressly reserved
13 by FPR r.1.3 and applied “*with necessary modifications.*” He went on to say at
14 paragraph 57 that:



15 “*The principle underlying these rules is very clearly that it is*
16 *desirable to equip a single court with the means of deciding all*
17 *relevant connected issues within the same proceedings and to*
18 *avoid a multiplicity of different and potentially conflicting*
19 *proceedings.*”

20

21 22. *Goldstone* provides confirmation that the joinder of third parties to ancillary relief
22 proceedings is governed by the FPR and the RSC. I acknowledge that Lord
23 Justice Hughes makes reference to FPRs 2.59(3) and (4) which require notice of

1 ancillary relief applications to be given to mortgagees of affected properties, the
2 trustees and settlers of settlements which may fall for variation and to such other
3 persons as the District Judge may direct and that felt this is to be consistent with
4 the principle of joinder. I accept that there are no similar sections in the MCR.
5 Does this mean that, in an absence of a rule in the Matrimonial Causes Rules
6 similar to FPR r.1.3, (i) the Chief Justice was wrong to be guided by the content
7 of RSC O.15 r.6; and/or (ii) that the Court had an inherent jurisdiction to make
8 such an order?

9
10 23. When considering this question, I note that in *Goldstone* Lord Justice Hughes
11 highlighted that when the Family Procedure Rules in 2010 replaced the FPR 1991
12 that the RSC, including O.15, r.6, would no longer apply directly to family
13 proceedings. He felt that the new Rules “*contemplate that the joinder of parties*
14 *be accomplished according to the broad discretionary case management powers*
15 *contained in the overriding objective.*” I also note that in *Fisher Meredith v JH*
16 *and PH (Financial Remedy: Appeal: Wasted Cost)* [2012] EWHC 40 (Fam) that
17 Mostyn J. found the power to order joinder was present under FPR 2010 rule
18 1.4(2)(b)(ii) which provided that the Court must further the Overriding Objective
19 by actively managing cases and that this included identifying at an early stage
20 who should be a party to the proceedings. He went on to comment that an
21 upcoming amendment to FPR 2010 would insert at r.9.26B a rule very similar to





1 Civil Procedure Rule 19.2.(2) which provides that the Court may order a person to
2 be added as a new party and sets out when that is desirable.

3

4 24. In *Rodriquez* the Chief Justice highlighted the duty of the Court to avoid a
5 multiplicity of legal proceedings and that it was required to bring issues together
6 properly and conveniently and dealt with in one action. Although not referring to
7 the overriding objective in GCR, he clearly was recognising that the Court should
8 approach matters to secure a just, most expeditious and least expensive
9 determination of every cause or matter on its merits.

10

11 25. When I review the Chief Justice's decision, he is not suggesting that the
12 jurisdiction to allow a party to intervene is given to the Court pursuant to GCR
13 O.15, r.6(2). The Chief Justice found that the Court may order joinder in exercise
14 of its inherent jurisdiction. The Chief Justice was saying that the absence of any
15 reference in MCR to a power to join a third party and the dis-application of the
16 GCR to matters governed by the MCR due to GCR O1., r.6(2) does not prevent
17 the Court exercising its inherent jurisdiction "*...in the proper management of*
18 *matrimonial proceedings, from resolving third-party claims...*" He advocates that
19 when considering in the circumstances whether the Court should exercise its
20 inherent jurisdiction and make the intervention order, it would be appropriate to
21 do so upon the sensible basis set out in O.15, r.6(2)(b). With that in mind, the
22 Chief Justice was rightly of the view that the Court, when considering whether to

1 exercise its inherent jurisdiction, should not be prevented from relying upon the
2 guidance given in the relevant case law on the RSC.

3

4 26. The comments of Mostyn J. at paragraph 34 *Rossi v Rossi* [2007] 1 FLR 805
5 fortify my view that, in the absence of any rule providing jurisdiction, the Chief
6 Justice's approach is to be followed. Mostyn J. stated:

7 *"If, as is plainly the case, there is a substantive power within the*
8 *ancillary relief proceedings to determine a third party's interests*
9 *then it has to follow that the determination must be binding on him*
10 *for which purpose he has to be a party. Even if the Rules did not*
11 *expressly provide for the power to join (which they do) then in*
12 *order to give effect to the substantive power that procedural power*
13 *would have to be implied."²*
14

15 **Conclusions**

16 27. I find that, in the absence of a provision in the MCR similar to Rule 1.3 FPR
17 1991, jurisdiction of the Court to order a third party to intervene in ancillary relief
18 proceedings cannot be grounded upon O.15 r.6 (2). However, I am firmly of the
19 view that the Court has a duty to properly case manage proceedings in the most
20 effective manner and this includes securing a just, most expeditious and less
21 expensive determination of the ancillary relief proceedings. The Court can do this
22 by exercising its inherent jurisdiction in an appropriate manner. The Court has
23 done this in the past, as illustrated in **Rodriquez**. In addition, when I consider the

² My emphasis by underlining.



1 White Book Note 15/6/10 I am also satisfied that the Court exercising its inherent
2 jurisdiction can allow a third party to intervene in proceedings if it will do justice
3 to the case and prevent serious hardship, difficulty or damage to the proposed
4 intervenor.

5

6 28. If the Proposed Intervenors are right about the nature and size of their alleged
7 beneficial interest in the matrimonial home, they could suffer serious hardship and
8 damage if they were prevented from recovering it due to them not being able to
9 properly argue their case. Their alleged beneficial interest clearly raises issues
10 connected to the ancillary relief proceedings and it would be just and convenient
11 to determine those within these proceedings rather than in separate proceedings.
12 The beneficial interest issue must be first resolved, especially in this case where
13 there are children of the marriage involved, to enable me to properly carry out my
14 19 MCL duty. I must be in a position to determine what assets 'are in the pot' for
15 distribution before considering s.19 and then going on to make any ancillary relief
16 orders. Accordingly, I allow the Proposed Intervenors to intervene in the exercise
17 of my inherent jurisdiction.

18

19 29. In my judgment handed down in *B v B* [2012] (2) CILR 124] I commented upon
20 the case of *TL v ML and Others (Ancillary Relief: Claim Against Assets of*
21 *Extended Family)* [2006] 1 FLR 1263. I stated at paragraph 38 that:

1 “...those who come before the Court should pay regard to the
2 procedural guidance given by Mostyn QC at paragraph 36
3 concerning cases where a dispute arises about the ownership of
4 property in ancillary relief proceedings between a spouse and a
5 third party when he stated:

6 “The following things should ordinarily happen:

- 7 i) the third party should be joined to proceedings at the
8 earliest opportunity;
9 ii) directions should be given to the issue to be fully pleaded
10 by points of claim and points of defence;
11 iii) separate witness statements should be directed in relation
12 to the dispute; and the dispute should be directed to be
13 heard separately as a preliminary issue, before the
14 FDR.”

15 It is accepted that we do not have the same rules as those that
16 apply in England and Wales, but the general approach
17 recommended above, with modifications to take into account local
18 practice, is commendable.”

19
20 30. I would also now add paragraph (iv) of Mostyn J.’s guidance as to the approach to
21 be taken in such matters, namely that “*The dispute should be directed to be heard*
22 *separately as a preliminary issue.....*” Having regard to Mostyn J.’s guidance,
23 which was endorsed by the Court of Appeal in **Goldstone**, the parties should
24 consult with the Listing Officer to list the matter for the first available mention
25 date at which time the necessary case management directions can be given.
26
27

1 **Costs**

2 31. If there is an issue as to costs related to the Intervenors application, I afford the
3 parties the opportunity to either provide written submissions or consult with the
4 Listing Officer to fix a cost hearing with a realistic time estimate.

5
6
7


8 **The Hon. Justice Richard Williams**
9 **JUDGE OF THE GRAND COURT**

