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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

PROBATE AND MATRIMONIAL OFFICE

LB

Petitioner

and

GB

Respondent

Before MASTER SWEENEY

Introduction

[1] This judgment arises from a contested ancillary relief hearing. I have already given judgment orally and made my order but I said I would set out what I had said in a written judgment in due course and I do so now. The petitioner is LB and the respondent her estranged husband, GB. In the interests of clarity and convenience, I refer to the said petitioner hereafter as “the wife” and to the respondent as “the husband”.

[2] Ms Rice KC acts on behalf of the wife. For a prolonged period, the husband acted as a Litigant in Person and later with Mr Brennan BL accompanying the husband initially as a McKenzie friend and finally appearing as counsel on behalf of the husband.

[3] As will become clear, the relevant facts of the case are straightforward, and the wife’s application ought to have proceeded swiftly to a Financial Dispute Resolution (“FDR”) hearing. Unfortunately, due to the manner in which the husband chose to respond, the proceedings were made considerably more difficult, lengthy and costly.

[4] The court was grateful to receive the parties' respective core issues and position papers. These are always helpful in that they enable the court to understand the parties' positions. Both parties gave oral evidence, and both relied on the affidavits of income and assets which were filed by them.

The parties' positions

[5] Taking account of the facts of this case, her needs and the husband's conduct, the wife says that she should receive the proceeds of the former matrimonial home and the husband's pension, those being the only tangible realisable assets left in the case.

[6] The husband has not expressly said what he seeks.

Background

[7] The wife is now aged 46 years. The husband is now aged 53 years.

[8] The parties married in September 2003. It was the husband's second marriage and though it was an arranged marriage, both parties agreed in their evidence that they wanted to marry.

[9] According to the husband, he came to Northern Ireland as a political refugee approximately thirty-five years ago. Having received some practical assistance from the Nobel Peace Prize Laureate, the late John Hume, the husband quickly secured employment. He soon met and married his first wife who was from Northern Ireland, they were young and the marriage ended but he has a son from that marriage who is now aged twenty-four years and who he says he has always maintained.

[10] The husband described his early studies to learn the English language, how he worked to assist his family in Kosovo and then progressed to operating his own businesses. The husband said he had a good relationship with his first wife until she did something which he could not forgive. He offered no further explanation but said he has a good relationship with his son.

[11] Throughout the parties' marriage that son stayed in the parties' home for overnight contact, the wife took care of him as the husband was working and according to the wife that arrangement continued until the husband stopped his son coming to their home. She said the husband said this was because of difficulties in their marriage, but she could not understand that reason.

[12] The wife came to Northern Ireland in October 2003, upon her marriage, and she has lived here since that time. She said the husband already had a cleaning business and she worked in the business for less than a month because she became pregnant soon after coming to Northern Ireland and the husband thereafter saw no need for her to work. The husband in his evidence said he stopped the wife working because she was arguing with other people. That seemed unlikely. It was clear from

both of their evidence that while they were married, the husband saw his role as providing for the family.

[13] Over the subsequent years the wife was mainly responsible for rearing the parties' two daughters and the husband built up the business. The husband was last known to operate the two separate car wash businesses in Bangor and Downpatrick. These were cash based businesses which were still making declared profits when the husband closed them during the currency of these ancillary relief proceedings.

[14] The parties first daughter, E was born in the first year of the parties' marriage and was aged 13 years when the parties' separated. She was born with Tuberculosis and underwent treatments, but the wife says her illness did not hold her back. E is now aged over 18 years and studying Sports Science in the University of Ulster and lives in Belfast. She sees her mother regularly. They have a good relationship. Although E is over 18 years, the wife says she continues to assist her financially to the extent that the wife is able.

[15] E does not see her father and though he provided £60.00 for his daughters on one Christmas and £50.00 on another Christmas he has not maintained them since separation. It seems that while the parties were together a credit union account had been set up for each daughter containing several hundreds of pounds and E had the benefit of that when she reached the age of majority.

[16] The parties' second daughter was born in 2010 and was aged just seven years when the parties' separated. She is at school, would like to be a teacher and remains wholly financially dependant on her mother

[17] The wife said she would have liked the children to have contact with their father but that her eldest daughter asked if her father had no interest in her, why should she have any interest in her father. When the husband was asked in direct evidence if he regretted that no contact took place, he was equivocal in his response. He does not appear to have sought contact.

[18] It appears clear that the parties' marriage had continued without notable event until the summer of 2017.

[19] The husband gave the name he had used in his original cleaning business, to the car wash business. Initially the husband had a partner in the business, but the partnership ended when, according to the husband, he discovered his business partner was stealing from the business. Thereafter the husband operated his own car wash business in Bangor and in Downpatrick. The husband and wife agreed that the husband worked seven days a week in the business from 7.00am and the wife described how the business grew with more people being employed particularly at weekend. The business was cash based, receiving cash, paying employees in cash and the husband brought cash home.

[20] The parties also agreed that the husband was a good provider but the parties did not have a joint account. The wife reared the children and the parties returned to Kosovo for annual summer holidays. The wife said there was an account with a card in her name, but the husband used it as he wanted. The wife said the husband always rushed her if she wanted to go to a bank machine or use the account. She said she never really learned how to use the bank machine and card until after the separation.

The 2017 holiday in Kosovo

[21] According to the wife everything changed unexpectedly in the summer of 2017 when the family were enjoying their annual holiday which was expected to last up to four weeks. The wife and children had gone to Kosovo in advance of the husband and were accompanied by the husband's sister. The wife said that the holiday progressed as normal for two weeks but then the husband told her he was returning to Northern Ireland earlier than planned and without the wife and children. She said he told her that when they returned, he and the wife would talk. He later sent tickets for the wife and children to return.

[22] It was put to the wife in cross examination that the husband suspected she was having an affair. The wife was adamant she never was involved in such relationship. She stated it was hurtful that the husband should say that. Explaining her feelings, the wife said that for her the husband's word was law, she respected the husband and his family, and his sister was her only friend in Northern Ireland. She said she loved her husband and before 2017 there was no suggestion of a separation or divorce. She said he was a changed man after 2017.

[23] There was no prior suggestion nor is there proof that the wife was engaged in an extra marital relationship. Furthermore, the wife's petition was never defended on that basis. Moreover, only after the wife had given her evidence, in his evidence in chief, the husband made the different case that he was the one who ended the marriage because he could not take it anymore, that after E's birth there was verbal abuse, the parties "could never get on... could never agree", that he "was the one who could do nothing right", that he waited for an apology for seven months.

[24] The wife said that on her return with the children to Northern Ireland the husband started saying that the wife should leave the house and he withdrew financial provision. She had the benefit of the child benefit paid to her for a time. Previously the husband would have discharged all the bills and bought what she and the children needed. This changed so the husband paid the mortgage while she was required to pay for food and necessities from the child benefit. The wife said the husband bought nothing for the wife or for the house. He told the parties daughters if they needed anything they should make a list for him to buy what they needed.

[25] The wife said that before that 2017 holiday, the husband would have retained cash in the house in different places which were known to her. She said there would have been cash of around £50,000.00 As she was travelling to Kosovo earlier than

him, the husband had given her £5,000.00 and he had taken £5,000.00 which meant a balance of £40,000.00 ought to have been left. She said they ordinarily converted their pounds sterling into euro when they were in Kosovo and that money would have been used for the holiday. Any unspent euro would have been brought home. The wife said when she returned the saved cash was no longer where it had been.

[26] In her evidence the wife denied any suggestion that she had removed 7,200 euro in cash. She said the only euro the parties had would have been euro left over from their holiday spending money. It seems to me that if there were euro in the matrimonial home, given it was the husband who wanted to end the marriage and who returned first from Kosovo, and given the other circumstances, it is more likely the husband would have secured any retained cash for himself.

After 2017

[27] The wife described how after her return from the holiday in Kosovo she discovered that the husband, without her knowledge, had instructed an estate agent to sell the matrimonial home. She said the husband persistently told her to leave but she had nowhere to go and hoped they would resolve any differences. The husband went to Kosovo for a week but returned to the matrimonial home. The wife recalled the husband attended a doctor's appointment to complain about his health and he received anti depression/anxiety medication which he never took but instead immediately returned to work and continued to work as normal. The wife recalled that the only time the husband took time off work was when he was spending time in Kosovo.

[28] The wife believed an estate agent told the husband he could not sell the former matrimonial home when the wife and children were occupying it and that may be the reason why the husband took physical steps to exclude the wife and children from their home while the wife was collecting their seven-year-old child from school. The wife described clearly the trauma visited on herself and the children, the husband smashing E's phone, the neighbours efforts to help, her language struggles, the police advising they could do nothing when they heard the property was held in the husband's name but upon witnessing the husband's treatment and the children's distress the police finally took them to a police station where after several hours they were afforded accommodation in a Women's Aid refuge.

[29] That was in June 2018. It marked the separation of the parties and the end of a marriage which had lasted approximately 14 years and 9 months. The wife went to court on 27 June 2018 and was granted an emergency protection and exclusion order. She remained with Women's Aid for 13 months.

The divorce proceedings

[30] A Decree Nisi was granted to the wife on 22 January 2020. Among the unreasonable behaviour relied on, two disturbing particulars were cited and repeated, unchallenged in the ancillary relief.

[31] Firstly the wife referred to the husband's refusal of a hospital request that he should collect and care for the parties' children to enable the wife to have a required operation. As a result, the operation had to be cancelled. Secondly, the wife referred to the already described incident of the husband boarding up the matrimonial home, while the wife was collecting the children from school, to prevent the wife and children returning to their home.

[32] In the divorce proceedings the husband disputed and appealed the granting of the Decree Nisi. His appeal was refused by the Court of Appeal. He then unsuccessfully sought to challenge that decision.

The ancillary relief proceedings

[33] The husband clung to his contention that due to a typing error in the divorce petition where a single letter was erroneously added to the parties' surname, the divorce proceedings and the ancillary relief proceedings were invalidated. He steadfastly maintained that position despite the court making it clear that it did not invalidate the ancillary relief proceedings. The husband repeatedly referred to the spelling mistake to justify his noncompliance with ancillary relief court orders.

[34] The husband further said he was already divorced in Kosovo, that being the country of origin of both parties. Despite being told that there was a subsisting Decree Nisi granted in this jurisdiction and that the wife's ancillary relief application was valid, the husband persistently refused to file a replying affidavit of means and assets or to provide the discoverable documents he was directed to provide. A relevant affidavit was only filed following proceedings brought to have the husband committed to prison for contempt.

The matrimonial assets

[35] The main realisable asset is approximately £70,000.00 being the balance proceeds of sale of the former matrimonial home.

The matrimonial home

[36] The property was bought in 2004, the year after the parties' marriage. The husband says the property cost £74,000.00, that he paid a 10% deposit and spent £21,000.00 on home improvements. The wife said she had not known the property was bought in the husband's name and when she discovered that fact and asked about putting it into joint names, the husband made the excuse that it would cost a lot of money to do so.

[37] The property was marketed in January 2023 for £115,000.00 after the husband ceased paying the mortgage and then handed the property back to the mortgage

lender. The wife only learned of the husband's actions through her solicitors who took steps to preserve the balance proceeds. The husband account that he was never aware there were balance proceeds does not seem credible. Instead, it seems more likely that by concealing from the wife the fact he had returned the property, which was in his sole name, the husband hoped to effect sale and secure the proceeds for himself without the wife knowing.

[38] Having been reassured by Women's Aid that she was able to return to her home, the wife described how when she finally returned to the former matrimonial home she could not get into the property as the husband had changed locks and removed the door handle. She described how neighbours helped her to remove the chipboard structures sealing the windows and door. She believed the husband caused significant damage to the property ensuring it was not fit for occupation.

[39] Bathroom tiles were broken along with the handle on the toilet in the main bathroom. The washing machine was broken and the oven smashed. Meat in the fridge had not been removed and was left to rot, so the smell was terrible and photographs she provided for the court showed long roots growing from beans in the fridge. The wife said she could not live in the house or even look at it.

[40] The husband for his part blames the wife for the damage to the property but no reason was given and such suggestion made no sense. The wife said that Women's Aid assisted her to retrieve a sofa, television and wardrobe from the former matrimonial home and she still uses them in her present home.

[41] The damage caused is likely to have negatively impacted on the value of the property. At no stage did the husband make any effort to fix the property, rent it on short term tenancy, or apply the rental income to the mortgage payments pending any sale. The husband did say that he borrowed £12,000.00 from his sister to pay the mortgage but there was no independent evidence to support that claim.

The car wash businesses in Bangor and Downpatrick

[42] The husband gave evidence that he closed these businesses due to their unsustainability albeit only following the separation, without notice to the wife and while the wife's ancillary relief application was before the court. No proof was provided to suggest the businesses were unsustainable nor was discovery provided in relation to any sales or sale proceeds for the business or any equipment. The accounts showed a business in profit.

[43] It seems to the court that the fact that the business profits no longer were shared between partners, and the husband was working so many hours, ought to have meant a bigger income for the husband. This was a cash business. The husband maintains he was working so many hours the declared profits did not produce sufficient reward. He said too that he was experiencing poor health. The court considered whether the timing of the closure of his business was likely to be coincidental given how the husband responded to the wife's ancillary relief claims.

The evidence pointed to a business which supported the family, their home, the investment of a lump sum in one business, annual family holidays and potentially investment in property in Kosovo.

The other assets in dispute

[44] The wife believes the husband owns a property in Kosovo at 603 Lucak I Begut where the parties and children lived during holidays. The wife said the husband was born and raised in that village. She described the property as being a “very beautiful” two floor house with a basement and containing five bedrooms with a very big balcony. She said the last time she saw the house was around 3 August 2017 during the family holiday in Kosovo. She said her clothes were kept in the property.

[45] The wife said she had trusted her husband and believed the property was held in his name but after the separation when she asked someone to check, she learned the husband put the property into his younger brother’s name and then last year she discovered that on or around 2023 the property was put into the husband’s new wife’s name. There was no evidence of title or value. Instead, the wife relied on an official document which the court interpreter translated. The document referred to the property and said, “By the request of [GB] this property from [GB] passes on to the name [EB] on the date 14/4/2023” That is the name of the husband’s third wife.

[46] In his evidence, the husband’s explanation for that document was that when he came back to Northern Ireland from Kosovo, he had to transfer the rates to his present wife so she could sort them out until the property could be transferred to another person. The husband denies ownership.

[47] It is not clear why the property could not have remained in the name of the husband for the sake of rates and the husband simply provide his third wife with the means to discharge the rates. The husband did not provide proof of the rates position even though he was aware in advance of the hearing of the case being made by the wife since she had already produced the document she was relying on. If the husband or his current wife were paying the rates, they were best placed to secure the relevant proofs.

[48] The wife also said the husband bought a mini market shop in the middle of a city called Istog. The wife described the location and the business. Again, there was no proof of ownership or value.

[49] Finally, the husband is understood to hold a small pension. Both parties accept the value of the pension is modest.

Maintenance

[50] After the separation and only when the wife brought a claim to the statutory agency for child maintenance, the husband for the first time claimed that he was not

the father of the parties' children. In his evidence to the court, the husband said he was encouraged to do so by the wife's father saying to him that he hoped they were the husband's children. This was another new narrative and was not put to the wife when she was giving evidence.

[51] The wife said the husband had not paid any maintenance whatsoever for the children since the date of separation and so when he then decided to deny paternity, the wife made the decision not to pursue child maintenance which she believed would have afforded her £40.00 weekly. The husband did not have contact with the children after the separation.

[52] The husband said in his evidence to the court that he wanted to provide child maintenance. If that was true, he was going the wrong way about it in questioning his paternity to the Child Maintenance Service. Having heard the husband, I do not believe the husband for one moment thinks he is not the girls' father, and it is difficult to conceive of any good reason for a decent father to question paternity. Instead, it says much about the lengths to which the husband is prepared to go to avoid his financial obligations for his children.

[53] The husband said on one occasion he brought phones and laptops and that this had resulted in the wife threatening another non molestation and exclusion order. However, when cross-examined about this account, the husband said the wife had threatened through the police. The husband further said he left the laptop and computers on the ground. The wife denies the husband's account, and I do not accept it. It did not make sense.

[54] Ms Rice KC asked the husband about several holidays he enjoyed in Norway and Kosovo at a time he was not paying maintenance. The husband said the Norway holiday was paid for by a sympathetic brother and that his third wife was working, and she helped pay for the other holidays. This of course does not avoid the fact that the husband was enjoying holidays when his wife and children had no maintenance whatsoever from him.

Income

[55] The wife has an ongoing medical condition, requiring operations which means she is entitled to a PIP benefit and this has increased in the last two years. She gave evidence that her combined benefit income currently affords her the monthly amount of approximately £2000.00 from universal credit, PIP and child benefit. She receives around £605.00 every fortnight by way of universal credit, approximately £700.00 monthly by way of PIP and child benefit of around £100.00 monthly. She did not work for most of the marriage, has an apparently worsening medical condition and has nowhere near the same grasp of the English language as the husband. All this negatively impacts on her future employment prospects.

[56] The husband says his income is entirely derived from government benefits. He said he presently receives DLA and universal credit in the respective amounts of

around £170.00 and £160.00. He said such income is not sufficient to meet his needs. The husband provided proof of universal credit payments for 2023. He claimed that he has been provided with a housing executive home to accommodate his alleged disability, but proof was not provided nor was he able to say what type of adapted property would be required to accommodate his stated medical complaints of anxiety, depression and diabetes.

[57] The husband's discovery is bereft of updated or adequate medical evidence. It was put to him that none of his reported complaints ought to have prevented him from working. It is noted that although the husband received a PIP benefit, the amount received did not reflect a serious illness. For her part, the wife believes the husband is still involved with the car wash business in Downpatrick and that it is held in someone else's name on behalf of the husband. It is not outside the realms of possibility that the husband will return to this business in the future. In this respect he has prospects which the wife does not have.

[58] As already stated, in recent years the husband has married a third wife in Kosovo. His courtship took place in Kosovo. He says he went to live there during a Covid lockdown for a period of six months. He said his third wife receives no financial assistance at all. She came to live in Northern Ireland in June/July 2025, but he says she does not work. This is the wife who the husband said funded his holidays. The husband clearly had the means to accept financial responsibility for his third wife and to demonstrate his ability to support her as required for her move to Northern Ireland.

Article 27

[59] Our primary legislation is Article 27 the Matrimonial Causes (NI) Order 1978 which sets out several factors all of which the court has taken into account when considering the specific facts of this case. This court has considered these matters in arriving at its conclusion. The legislation also requires the court to consider whether a 'clean break' between the parties is appropriate.

[60] Under the legislation first consideration must be given to the welfare while a minor of any child of the family who has not obtained the age of 18. There is good reason for this given the financial burden is placed on the person who has primary financial responsibility for a dependant child. They not only have financial responsibility for providing a roof over the child's head but in addition, a parent with limited means might struggle to balance a weekly budget so that a child does not go without or to meet the child's social needs and extra-curricular activities. Where one parent is left to shoulder the financial burden alone it stands to reason the other parent is spared the burden.

[61] In relation to the other factors to which the court has regard and specifically regarding conduct, in the seminal case of *Miller; Mc Farlane*, [2006] 1FLR 1186 Lord Nicholls said:

“... in most cases misconduct is not relevant to the bases on which financial ancillary relief is ordered today. Where, exceptionally, the position is otherwise, so that it would be inequitable to disregard one party's conduct, the statute permits that conduct to be taken into account.”

[62] The conduct which cannot be ignored in this case were the steps taken by the husband to deprive the wife of income and of a home, He had to know her limited language skills, her vulnerability, her lack of income or resources. The husband's actions left the wife with no income of her own. The husband's conduct in excluding her from her home left her homeless. The husband's actions in damaging the property operated to prevent her from being able to return. The husband's actions in failing to discharge the mortgage and handing keys back to the lender operated to try to put the benefit of the property beyond the reach of the wife.

[63] In relation to the children, the eldest of whom was born in the first year of the parties' marriage, the husband for the first time questioned paternity when the wife sought maintenance for the children. His actions caused the wife, in what she clearly considered the children's interests, to withdraw her efforts to secure child maintenance. The husband in court did not demonstrate any good reason for questioning paternity other than to suggest in his direct evidence that the wife's father asked him if he was the father. This was not put to the wife in her evidence, and I place no reliance on it.

[64] The aforesaid conduct cannot be ignored as in different ways it acted to the wife's financial detriment.

Litigation conduct

[65] There were a number of areas of interest.

In relation to the assets

[66] It became necessary for the wife's lawyers to ensure the preservation of the proceeds of sale of the former matrimonial home pending resolution of the wife's ancillary relief application.

[67] Furthermore, the husband deprived the wife of the opportunity to agree to put the former matrimonial home on the open market. His actions may have been designed to put the capital in the property beyond the control of the wife even if it meant the property selling for less than its potential. However, he has effectively damaged his own case if he has reduced the pot to the extent that there is not enough to go around.

In relation to discovery obligations

[68] The husband eventually provided some but far from all of the discoverable documents required of him, despite being afforded every opportunity to do so. He

was repeatedly warned that if he failed to provide documents which were within his power to provide, he ought not to presume that the court would fill in the missing gaps in evidence in his favour.

[69] It is vitally important to the Ancillary Relief process that parties are open and honest about their income and assets and provide the documents which prove those matters. Lord Justice Thorpe said in *Lykiardopulp v Lykiardopulo* [2010] EWCA Civ 1315:

“The parties owe the court a duty, a duty of full, frank and clear disclosure. The duty is absolute...”

[70] If a party ignores that obligation, they can expect to be judged accordingly. What they say and submit at hearing is judged against any failure to disclose.

[71] In the older case of *J-P C v J-A F* [1955] P 215. Sachs J considered the duty of the court to consider drawing adverse inferences where non-disclosure is found. As his words resonate in this case, I set out what he said:

“In cases of this kind, where the duty of disclosure comes to lie on a husband; where a husband has – and his wife has not – detailed knowledge of his complex affairs; where a husband is fully capable of explaining and has had opportunity to explain, those affairs, and where he seeks to minimise the wife's claim, that husband can hardly complain if, when he leaves gaps in the court's knowledge, the court does not draw inferences in his favour. On the contrary, when he leaves a gap in such a state that two alternative inferences may be drawn, the court will normally draw the less favourable inference – especially where it seems likely that his able legal advisers would have hastened to put forward affirmatively any facts, had they existed, establishing the more favourable alternative.

...the obligation of the husband is to be full, frank and clear in that disclosure. Any shortcomings of the husband from the requisite standard can and normally should be visited at least by the court drawing inferences against the husband on matters the subject of the shortcomings – insofar as such inferences can properly be drawn”.

[72] That inferences "must be properly drawn and reasonable" was repeated by Otton LJ in *Baker v Baker* [1995] 2FLR 829. As Ewbank J said in the case of *E v E (Financial Provision)* [1990] 2 FLR 233:

"it would be wrong to draw inferences that the husband had assets which, on an assessment of the evidence, I am satisfied he had not got".

[73] To all of that must be added that if a party has had to expend costs securing the information the other party was obliged to provide and was capable of providing, the defaulting party can expect that to be taken into account when considering costs. In this case there can be no doubt that by his actions and inaction, the husband caused delay and added to the wife's costs. In addition, at different times from the date of issue of the Ancillary Relief application, despite being required to do so, the husband failed to attend before this court and without good reason.

In relation to the ancillary relief application in general

[74] The time and cost wasted by the husband were frustratingly pointless. Not only was the wife's Ancillary Relief application properly before this court but it had also been explained to the husband that even if there was not a Decree Nisi of Divorce in this jurisdiction, but if instead our courts accepted the parties had divorced in Kosova, a different route for ancillary relief remained available to the wife. This route is under the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 Part IV which provides for Financial Relief in Northern Ireland after an Overseas Divorce. The husband's stubborn determination to block these proceedings has operated to the disadvantage of both parties.

[75] It is especially difficult to understand the approach taken by the husband given that the parties lived here after their marriage, remain living here, the children of the family were born here, and the former matrimonial home is located here. There was a clear and obvious reason why an ancillary relief application would be brought in this jurisdiction.

[76] Furthermore, because of the way the husband chose to respond to the wife's application it became necessary to list the case for hearing. In his "core issues" statement filed in advance of the hearing, happily, for the first time it was stated, "It is the Respondent's position that Ancillary Relief proceedings may well be legitimate...". By that stage the husband had secured the benefit of independent legal advice. It is a real shame he did not instruct a solicitor sooner.

In relation to the hearing

[77] At the end of the wife's evidence, the husband did not attend to give his evidence. On that morning for the first time and after the court list had commenced, the court staff received a GP's note forwarded by the husband. The note referred to a self-reported complaint of anxiety by the husband, which was almost identical to one which had previously been considered inadequate for excusing the husband's non-attendance. The husband was advised he needed to attend court immediately, but he chose not to do so.

[78] Though the court did allow further opportunity for the husband's evidence to be given, the court made it clear the husband's absence was unacceptable and he had prevented the case from progressing as intended. The court warned that the husband's said conduct would be taken into account in the final judgment. Costs were reserved in the meantime. The court is particularly mindful that wasting court time is not without negative impact for parties in other cases too.

[79] It was only after the wife had given her evidence, in his evidence in chief, the husband made efforts to denigrate the wife for the first time despite such account not being provided in the divorce, affidavits, core issues, or even in the wife's cross examination. The husband's evidence was not credible as it was changeable, novel and self-serving.

Conclusion

[80] Having considered all the evidence, it does seem that had the husband conducted himself differently so much could have been simpler and better. He might have enjoyed a relationship with his two bright and talented daughters, the husband could have continued to build up his business but out of the shadows, the wife could have had the security of maintenance, the former matrimonial home could have been marketed in a way which maximised its potential for both parties, opportunities in Kosovo could have been revealed so that there would never be the risk of this case being examined again through the prism of non-disclosure. Instead, the husband chose the path of obfuscation, delay and denial which being wholly contrary to the fairness and forthrightness demanded in ancillary relief, was perhaps doomed to fail.

[81] In considering the facts of this case, the legal principles which apply and fairness, I am conscious of the following:

1. If the husband had not damaged the former matrimonial home, failed to discharge the mortgage and unilaterally handed the keys of the property back to the bank, there would have been greater equity in the former matrimonial home to consider.
2. The balance proceeds of sale of the former matrimonial home are modest and are not sufficient to rehouse both parties. The court cannot be sure of the extent of the resources available to the husband. There is on the other hand no dispute about the fact that the wife has no other resources available to her and neither party has made the court aware of any prospects available to the wife in the future.
3. If the husband had not "closed" two profitable businesses after the separation, there would have been businesses to value and such valuation available for the court's consideration when weighing needs and sharing in the balance. The husband's business operations produced a comfortable

lifestyle for the wife and children which lifestyle ceased for the wife and children after the separation.

4. The success which the husband had with the businesses which he closed means the court cannot discount the possibility that such earning potential is available to the husband in the future.
5. The husband conducted himself in a way which meant his wife and children were immediately left without home or income.
6. The husband's actions in questioning paternity of the parties' children who were also treated as children of the family for the whole of the marriage not only was hurtful, but it was also harmful and can only have been designed to prevent the wife from pursuing the child maintenance to which she was entitled. The wife continues to singlehandedly shoulder the burden of maintaining the parties' youngest child.
7. There was no proof that the husband owned property in Kosovo but against the husband's lamentable lack of proper discovery, and the steps taken by him to deprive the wife and children of a home and proper financial provision, and having heard the evidence of the wife, and having seen the document which shows transfer between the husband and his third wife, and in relation to a property which the wife says she understood to belong to the husband and which she occupied during holidays to Kosovo, the court cannot discount the real possibility that the husband does have an interest in property in Kosovo.
8. The husband has had the resources to travel to and live in Kosovo, to travel back and forth between there and Northern Ireland and to bring his new third wife to Northern Ireland.
9. The husband had a pension and though considered to be of modest value, the wife has no pension provision.
10. The husband has contrived to make such applications as cause court proceedings and delay. He has disobeyed orders and acted and failed to act in a way which has added to the financial cost to the wife. The wife has had to try to secure information which was within the custody and power of the husband including proof in relation to his income including Court Orders seeking information from banking institutions and from HM Revenue and Customs. Such litigation misconduct must be taken into account in favour of the wife and is normally reflected in costs. In the context of costs, I have considered what has helpfully been set out in the cases of *US v SR* [2014] EWHC 175 (Fam) and *OG v AG* [2020] EWFC 52.

11. The husband only secured legal representation in anticipation of the hearing and even then, changed his legal representation which again added to the cost of proceedings for the wife.
12. Both parties have the benefit of a legal aid certificate, but the statutory charge will apply and by the husband's actions, the wife's costs are much greater, yet the court anticipates limited benefit from making a costs order against the husband unless the court directs that it is to come out of the husband's share of the assets.

Taking account of all the foregoing the court orders as follows:

[82] In clean break settlement of all the parties financial and ancillary relief claims against each other in life and in death, arising from the breakdown of their marriage:

1. The balance proceeds of sale of the former matrimonial home at 2 KXXXX BXXXX. shall be divided 85/15 in favour of the wife.
2. The husband shall retain his pension as his own absolutely.
3. The 85/15 division in favour of the wife and the retention by the husband of his pension represents a clean break settlement of maintenance for the wife and of her interest in the proceeds of the husband's business.

Costs

[83] The husband shall pay the lump sum of £10,000 towards the additional costs he has caused the wife by reason of his litigation misconduct. This shall be deducted at source from the husband's 15% interest in the proceeds of sale of the former matrimonial home.