



[2016] JMSC Civ.109

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CIVIL DIVISION

CLAIM NO. HCV 5425 OF 2005

BETWEEN	EVERITH POWELL	CLAIMANT
AND	LLOYD GRAHAM	1ST DEFENDANT
AND	SHARON GRAHAM	2ND DEFENDANT

Gordon Steer and Miss Deborah Dowding and Mrs. Barbara Hines, instructed by Chambers, Bunny and Steer for Claimant.

Rudolph Francis for 1st Defendant.

Dr. Randolph Williams for 2nd Defendant.

Heard: October 14, 15, 2010, March 27, 29, October 11, 31, 2012,

May 31 and June 24, 2016

**Property (Rights of Spouses) Act 2004 Secs. 2, 6,7,13
and 14 - Division of Property - Single woman and single
man - Unequal contribution to acquisition of land -
Construction of house – Registered Title in joint names -
Equal share rule – Variation of equal share rule -
Contribution of third party**

DAYE, J.

Background

[1] The claimant Everith Powell and the defendant Lloyd Graham shared a relationship. They were not married to each other. They began living together from 1989 in rented premises at Smithfield, Westmoreland.

[2] Between 2003 and 2004, they moved to a house that was being constructed on Lot 358 Llandilo Housing Scheme, Phase 4 in the parish of Westmoreland.

[3] This house was constructed on land registered at Volume 1307 Folio 386. The duplicate certificate for this land was registered in the names of Lloyd Graham, Everith Powell and Sharon Graham, a sister of Lloyd Graham, as joint tenants on 17th May, 2000. (See Exhibit 1- Certificate of Title). The legal title was therefore in the names of these three parties. Does this mean that the beneficial interest or share in this land was divided equally between these three (3) parties? Prima facie, each of these three parties would be entitled to a proprietary interest in the land arising from their names on the title unless there is evidence to the contrary. Equity follows the law and they would be joint beneficial owners.

[4] The problem of the extent of each of these joint legal owners' beneficial interest in the land arose in 2005. It also arose in relation to the house that was constructed on the land. The claimant moved out of the house at Lot 358 Llandilo Housing Scheme, Westmoreland in August 2005. There were irreconcilable domestic differences between the claimant and the defendant at the time she moved out the house and separated from the defendant.

[5] The claimant in due course filed a claim and an affidavit dated 5th December, 2005 for her share in the land and house. In her amended claim form, filed on 7th July, 2009, she repeated her claim for the following relief and orders against the defendants:

“(a) [She] is entitled to seventy-five percent (75%) in the building located at Lot No. 358 Llandilo, Savanna la mar, P.O. Westmoreland, and fifty percent (50%) in the land”.

[6] She claimed other consequential relief such that there should be a valuation of the property and the 1st defendant be given first option to purchase the property.

[7] The first defendant Lloyd Graham responded in his defence and counter-claim dated 8th March 2006, that the claimant is not entitled to any share in the land, only

twenty-five percent (25%) share in the house and he is entitled to seventy-five (75%) in the house and one hundred percent (100%) in the land.

[8] A first mortgage from the National Housing Trust for \$1,500,000.00 was granted and registered on the Certificate of Title to Everith Powell and Sharon Graham on the 19th September, 2002.

[9] A second mortgage also from the National Housing Trust (NHT) for \$213,156.63 was granted and registered on the Certificate of Title to Everith Powell and Sharon Graham on the 11th October, 2003.

[10] Those two loans were to assist the 1st defendant to complete construction of the house on Lot 358 Llandilo Housing Scheme, Westmoreland. The 1st defendant who was self employed as a taxi operator at the time of construction did not qualify to obtain a National Housing Trust benefit. The claimant Everith Powell, who was employed as a Sales Representative at WYSNCO Ltd. qualified for such a benefit as also his sister Sharon Graham.

[11] Counsel for the 2nd defendant Sharon Graham submitted that her name was jointly on the title at the time of registration and she was entitled to a 1/3 beneficial interest in the land and any other interest in the house that the Court find just reasonable.

Evidence

Land

[12] The claimant based her claim to twenty-five (25%) interest in the land on the ground that she contributed \$130,000.00 to the purchase price of \$635,000.00. The 1st defendant, she said contributed the balance. The 2nd defendant does not claim she made any contribution to the purchase of the land. The claimant has a receipt for the sum of \$130,000.00. The defendant's evidence is that he has one hundred percent (100%) interest in the land, as he bought the land in 1998 for a sum of \$590,000.00. He said he gave instructions for Everith Powell's name to be placed on the land to appease her, as she was upset when she found out that her name was not on the land

title. In cross examination, he testified that he started making payments on the land in 1998. He further contended as follows:

“when Ms. Powell’s name went on the title automatically, she had a share in the land but that was not the intention at the time”.

[13] The further witness statement of Everith Powell dated 6th August, 2009 para. 33 in contrast states her intention:

“that it was never my intention to own the land and house with the respondent, as I wanted a house of my own”.

“that I was forced to move out the house, I was excluded from the home in or about August 2005 due to his abuse”. (para 54). “That even though I moved out I still furnish the bank loan and pay on the mortgage in addition to paying the property taxes and National Housing Trust Insurance”.

[14] On a review of the evidence, I find that on a balance of probability:

- (a) That the claimant and the 1st defendant started to live together as man and wife from 1989 at rented premises in Smithville, Westmoreland;
- (b) they both shared living, domestic and household expenses when they lived at rented premises, though not always in equal share;
- (c) In 1998, the 1st defendant entered in an agreement to purchase Lot 385 Llandilo Housing Scheme from Thompson Construction Ltd;
- (d) He paid the initial deposit towards the purchase price of this land by installment between 1998 and 2000;
- (e) The claimant contributed \$130,000.00 towards the purchase price of the land;
- (f) That the land was bought with the intention to build a house for them both

- (g) That they pooled these efforts and financial contribution to construct a house on the land. The building of the house was a joint effort in which they contributed in unequal share;
- (h) The claimant and the 2nd defendant, the sister of the 1st defendant, obtained two (2) loans from the National Housing Trust in 2002 and 2004 to assist in the construction of the home;
- (i) The 2nd defendant contributed her housing trust benefit to her brother to assist in completing the home on Lot 358 Llandilo;
- (j) The claimant borrowed a further \$300,000.00 loan from the Bank of Nova Scotia and National Commercial Bank to help in the construction of the home
- (k) Both the claimant and the defendant made payments to the mortgage loan from 2002;
- (l) the parties moved into the incomplete house between 2003 and 2004 and continued their cohabitation ;
- (m) the parties separated in 2005 when the claimant moved out of the house
- (n) the claimant continued to pay mortgage on the loan at the NHT after 2005 although she had moved from the house;
- (o) Lloyd Graham and Everith Powell, the claimant and the defendant, were living together as a single woman and a single man as spouses;
- (p) Lot 358 Llandilo Housing Scheme, Westmoreland was the claimant's and the defendant's "family home".

[15] He acknowledged again that there was a receipt in the claimant's name for a \$130,000.00, after first denying that she had made any payment towards the land. He explained that he put the land in her name to appease her, but she wanted to have

proof of land ownership to apply for a U.S. visa. This is the same explanation he gives for the receipt for \$130,000.00.

[16] In cross examination, he denied that when the land was purchased, it was the intention for himself and Miss Powell to live there. This denial must be placed alongside his statement in cross examination about the relationship between himself and Miss Powell. He testified further as follows:

“I would not say at the time when Miss Powell put money in the construction of the house that the relationship between us was good. She was, for all intent and purpose, my spouse. Me and she was living several years before this”.

Construction of House on Land

[17] The defendant Lloyd Graham’s evidence-in-chief, which is his witness statement dated 1st March 2010, gives an idea of the nature of the relationship between himself and Everith Powell and their joint efforts towards the construction on the land. He swore as follows:

11 “I got the offer of competitive prices from Mr. Courtney Samuels of Samuels’ Hard ware Store, Little London, Westmoreland. I took Miss Powell to Mr. Samuels and introduced her as my common-law wife. I then used the sum of two hundred thousand dollars (\$200,000.00) which I had withdrawn from my savings account to open an account with Samuels’ Hardware Store, paying down on the first set of building materials which was needed to start construction of the house”.

12. “After I opened the account with Samuels Hardware Store, I allowed Ms. Powell to do the ordering of the building materials as the need arose. I did this for two (2) reasons”:

- (1) Ms. Powell was by now mobile, driving her own car which I had helped her to purchase,
- (2) her working hours were more flexible than mine”

[18] The claimant testified that she contributed the sum of \$900,000.00 towards the construction of the house. Mr. Lloyd Graham accepted this statement in (paras. 15, 18, 17) of his witness statement. He also admitted her contribution, in cross examination. He said that up to that point, he had exhausted his savings of \$1 million. He said that up to that point he would have spent \$100,000 more than her. He agreed she paid \$300,000.00 from a Bank of Nova Scotia loan. He said his total contribution would add up to \$2 million. He agreed her contribution would give her a share in the house and that her contribution would be mathematically fifty percent (50%).

Mortgage Loans

[19] There was another contribution to the construction of the house. Reference was made to these two mortgage loans from the National Housing Trust. Mr. Lloyd Graham's evidence was that before these loans were obtained, he alone paid the monthly sum of between \$8,300.00 and \$8,400.00 per month for the first mortgage and \$4,200.00 or \$4,300.00 per month for the 2nd mortgage which Miss Everith Powell disputed. Miss Sharon Graham said she used to get money from both Mr. Graham and Miss Powell to pay the National Housing Trust's mortgage. Miss Sharon Graham did not pay any mortgage at all. Her role was merely administrative i.e. she collected mortgage payments, carried it to the N.H.T., deposited it and obtained receipts. She appeared to do this for both parties. She was dutiful in ensuring that the mortgage was paid. Her conduct showed that she had keen interest in the timely payment of these loans, one of which she was a borrower. Her interest was on behalf of herself and her brother Lloyd Graham and apparent not Miss Everith Powell.

[20] Miss Everith Powell claimed an additional share or interest in Lot 358 Loudilo Housing Scheme home. Her reason was that Miss Sharon Graham gave her N.H.T benefit to her as a gift. Miss Sharon Graham disputes this. Her evidence under cross examination is:

“Miss Powell did not ask me to give my benefit to her from N.H.T. Lloyd Graham asked me to give him my benefit”.

[21] It is more probable that Sharon Graham gave her N.H.T benefit to her brother Lloyd Graham, then to her sister-in-law Everith Powell. Lloyd Graham's evidence in cross examination, on the issue is:

“In my defence, I will say I have twenty-five percent (75%) in the house and Miss Powell has twenty-five percent (25%) on claimant's. The seventy-five percent (25%) include Sharon my sister's claim. Yes, I signed the defence and counter claim. I always maintain my sister was part of the seventy-five percent (75%) “.

[22] Sharon Graham agrees that she did not contribute to the purchase of the land, nor to any construction of the home or to the payment of any mortgage loan. She does not personally claim for any share or interest in the land or home. She agrees with her brother's claim for 100 percent interest in the land and 75 percent interest in the home. Nevertheless her housing trust benefit is of value. Her benefit was \$840,000.00 when she joined with Everith Powell and it allowed the parties to obtain the loan to continue construction of the home.

[23] If she did not benefit in obtaining a share in the land or premises and she did not make a gift of her Housing Trust benefit to Sharon Powell, it is only reasonable to infer that she was making a contribution to the construction of the home on behalf of her brother Lloyd Graham. This brings into operation the result of the contribution an extended family member or a third party to the acquisition of a property or asset by a couple (per McDonald-Bishop, J. (Ag.) **Graham v Graham** claim No. 2006 HCV 03158, paras. 36-45).

(24) The issue of whether Sharon Graham gave her NHT benefit as a gift to Everith Powell or her brother led to another issue. Everith Powell claimed that Sharon Graham transferred her share in the land at Lot 358 Llandilo Volume 1307, Folio 306 to her. She produced a transfer document showing that Graham had signed over her interest in August 2005 in the presence of an attorney for the claimant. Miss Sharon Graham denied this in her witness statement.

Expert Evidence/The Battle of the Experts

[25] Considerable costs and time was expended for the trial to determine the issue whether Miss Everith Powell was fraudulently involved in this Transfer. Both sides called expert handwriting witnesses. Retired Senior Superintendent Carl Major's opinion about the question of the handwriting of Sharon Graham on the transfer was:

"I am of the opinion and satisfied after careful and thorough examination and comparison of all twenty-nine (29) signatures "S. Graham" on the fifteen (15) sheet page of he thirty (30) sheet page document listed at "(a) above - attach thereto are two (2) identical sheet/page - these three signatures "S. Graham" are of the same authorship but different from the individual who wrote those twenty-six (26) specimen on sheet/document listed 'b' above".

In other words, his opinion was that it was not Miss Sharon Graham who signed the Transfer.

[26] Admitted in evidence was the affidavit of handwriting expert Joe B. Alexander of Texas dated 20th June, 2010. His opinion was:

"5 I have compared the signature of Sharon Graham on the known comparison documents (Ex. 2) to the purported signature of Sharon Graham in the questioned document (Ex. 3) in order to determine whether or not, the author of the signature on the questioned document was the said author who penned the signature on the known comparison documents".

"6...it is my professional opinion as a Certified Forensic Document Examiner, that the signature purported to be that of Sharon Graham on the questioned document have sufficient similarities to the known signatures of Sharon Graham to be convinced to a reasonable degree of scientific certainty that the signature of Sharon Graham on the questioned document was authored by the same person who authored the known comparison documents".

In other words, the expert's opinion is that the 2nd defendant Sharon Graham signed the Transfer form of the 1/3 share in the land.

[27] The Court is in no better position to say if the expert evidence in relation to the Transfer was signed by Sharon Graham. The most that can be said is that the claimant Everith Powell would have a motive and an interest to sign such a transfer as it would support her claim to an increased share or interest in the property. Nothing further is added to this evidence to prove that the claimant is entitled to an increased share in Lot 358 Llandilo Housing Scheme, Westmoreland.

Law

[28] The division of the respective share of the claimant and the 1st defendant in the land and house of Lot 358 Llandilo Housing Scheme is governed by the **Property (Rights of Spouses) Act 2004** which came into force on the 1st April, 2006. The name of the 2nd defendant and joint owner of the land and her contribution of her Housing Trust benefit to the 1st defendant does not exclude the operation of the Act.

[29] The claimant filed her claim for a share in the home in 2005 before the Act came into force in 2006. However the parties' rights are nevertheless governed by the Act.

[30] Morrison J.A, as he then was, held that the **Property (Rights of Spouses) Act** had retrospective effect in **Brown v Brown [2010] JMCA Civ. 12**. The learned judge stated at para. [76]:

“the statement in Section 4 that the provisions of the Act “shall have effect in place of the rules and prescription of the common law and equity“ is further evidence in my view of the intention of the legislature of the 2004 Act, should as of the date it came into force, have effects in all respect to all disputes as to matrimonial property, irrespective of the date of separation or divorce of the parties, as the case may be”.

[31] He continued at para [83]:

“in the instant case. It appears to me that the Appellant whose marriage was dissolved on May

2005 and whose claim form was filed on 11th January, 2007 was plainly entitled by virtue of Section 3 (3) as 'former spouse' to make an application under the 2004 Act".

Spouse

[32] The 2004 Act extended the meaning of spouse to include unmarried couples who cohabit together. It also extended the right to these persons on the termination of cohabitation to apply to the Court for a division of property (Sections 2 and 13 of 2004 Act).

[33] Section 2 provides as follows:

“spouse” includes -

- (a) a single woman who has cohabited with a single man as if they were in law his wife for a period of not less than five years;
- (b) a single man who has cohabited with a single woman as if she were in law her husband for a period not less than five years.

Immediately preceding the institution of proceedings under this Act, or the termination of cohabitation as the case may be.

[34] Both the claimant and the defendant would satisfy and would be included in this meaning of “spouse.”

[35] Then Section 13) (1) provides:

“A spouse should be entitled to apply to the Court for a division of property:

- (a) on the grant of a decree of dissolution of marriage or termination of cohabitation;
- (b)
- (c)
- (d)

[36] Either the claimant or the 1st defendant would then be entitled under this Act to have the Court determine their respective share in Lot 358 Llandilo Housing Scheme, Westmoreland. In the instant case, the property that concerns the parties is their home.

Family Home

[37] Section 2 defines “family home” in these terms:

“Family home” means the dwelling house that is wholly owned by either or both of the spouses, and used habitually, or from time to time by the spouses as the only or principal family residence together with any land, buildings, or improvements, appurtenances to such dwelling house and used wholly or mainly for the purpose of the household, but should not include a gift to one spouse by a donor who intended that spouse alone to benefit”.

[38] Lot 385 Llandilo Housing Scheme, Westmoreland bears all the characteristics of a “family home” of the claimant and the defendant.

The Statutory Equality Rule

[39] Each spouse is entitled to one-half share of the family home (Section 6 of Act), This arises on the ground of dissolution of the marriage or termination of cohabitation (Section 6 (1) (a) of Act).

[40] This then is the starting point to determine the claim of the claimant to her share in Lot 358 Llandilo Housing Scheme, Westmoreland. Her share and the defendant’s share in the family home is 50:50 and not 75% to 25% for the claimant or 75% to 25% for the defendant. No distinction is made between the land and the building, as family home includes the land on which the home is constructed.

Submissions

[41] It is not therefore necessary to do any detailed examination of the authorities relied on by the claimant that she made a substantial contribution to the land and building of the home and that she is therefore entitled to a greater share than 50% of the property. The cases of **FS v JS** [2006] EWHC 2793 (Fom.), **Stack v Dowden** [2007]

2UK H.L.17, Re Ravlou [1993] All ER, **White v White** [2002] F.L.R 98, **Miller v Miller**, **McFarlane v McFarlane** [2006] FLR 1186 are not applicable. With the exception of the last two cases which deal with the English Matrimonial Act, the other cases are based on the old presumption of the common law doctrine of resulting trust and equity.

[42] Equally the submissions of Counsel Mr. Rudolph Francis and Dr. Randolph Williams and the authorities they rely on are not applicable. These cases are only relevant in that they show the historical development of the law. It is the new regime of the **Property (Rights of Spouses) Act** 2004 that is applicable. There is no reason to resort to detailed evidence of direction or indirect contribution of one party to the acquisition, maintenance or improvement of the family house to establish the share in the family home. The statutory equal share rule 50:50 now applies

Variation of Equal Share Rule

[43] Section 7 of the Act provides for variation of the rule. The burden of proof is on the party that seeks to have his or her equal share increased or the other spouse's equal share reduced.

[44] The Court has discretion to vary the equal share rule if it is of the opinion that it would be unreasonable or unjust for each spouse to be entitled to one-half of the family home.

[45] Section 7 (1) (a) (b) and (c) includes the factors that the Court ought to consider on an application to vary the equal share rule in the family home. These factors are: if the house was bone spouse, the house was already owned by one party at the time of marriage or at the beginning of cohabitation of the marriage if it is of a short duration.

[46] None of these factors are applicable to either the claimant or the defendant in the instant case. Brooks J.A. in **Stewart v Stewart** [2013] JMCA Civ. 4 provided a close examination on the nature and effect of Section 7 of the Act. He observed the following:

“[26] Section 7 (i) explains the method by which the statutory rule may be displaced. It authorises the Court to vary the equal share rule at the request of a party wishing to dispute the application of that rule. Section 7

(i) also sets out some of the circumstances that could displace that statutory rule”.

“[27] At least three (3) things are apparent from Section 7 (i):

(a) The section requires the party who disputes the application of the statutory rule to apply for its displacement.

(b) The use of the word “including” implies that the Court is entitled to consider factors other than those listed in Section 7 (i)

(c) The equal share rule has to be shown to be unreasonable or unjust; equality is the norm.

“[31]

Based on the above analysis, it may be said that if the door is open, by the existence of the Section 7 factor, for the consideration of displacement of the statutory rule, then very cogent evidence would be required to satisfy the Court that the rule should be displaced. The level of cogency required may not be as high, however as that required by the claimant [by the criminal law]”.

“[34] The third point to be noted is that the existence of one of those factors listed in Section 7 does not lead automatically to the entire interest being allocated to one or other of the spouses. What may be gleaned from the situation, is that each of the three factors provides a gateway whereby the Court may consider other elements to the relationship between the spouses in order to decide whether to adjust the equal share rule. It is at this stage of assessing one or other of these factors, but not otherwise, that matters such as the level of contribution by each party to the matrimonial home, their respective ages, behaviours and other property holdings become relevant for consideration

..... If therefore, a Section 7 factor existed, fairness would require our Courts to have regard to all the circumstances of the case, to decide whether an unreasonable or unjust situation existed that should lead to a departure from the equal share division.

[51] if a Section 7 factor is credibly shown to exist, a Court considering the issue of whether the statutory rule should be displaced, should nonetheless, be very reluctant to depart from thatBefore the Court makes any order that display the equal entitlement rule, it should be careful to be satisfied that an application of that rule would be unjust or unreasonable.

[47] Though the claimant and defendant disputed the level and extent of each party's contribution to almost all stages of the purchase and construction of the family home, their conduct on the totality of the evidence disclosed that there was a joint effort and pooling of resources throughout the course of dealing of the property. There is no particular feature, that would render it unreasonable or unjust for each spouse to be entitled to one share of the family home except discussed hereunder.

Third Party Contribution

[48] The 3rd defendant used her housing trust benefit and applied for two joint loans with the claimant which was granted in the sum of \$1.5 million and over \$213,156.63 to assist in the completion of the house. Though her name was placed on the title by the 1st defendant, she did not contribute to the purchase of the land. She made no contribution to the payment and construction of the house or payment to service the mortgage loan or any other loan.

[49] In **Graham v Graham** Claim No, 2006 HCV 03158 McDonald-Bishop, J. (Ag.) discussed at paragraph 34 to 40, the position of an extended family unit, in the determination of spousal entitlement to matrimonial property. She also looked at the contribution of a third party to a spouse and its effect on the equal share rule.

[50] In **G v G (Matrimonial Property Rights of Extended Family)** [2006] 1 FLR 62, the Court appears to accord weight to third party contribution to a spouse. The husband was able to obtain a family home through the means of his father's wealth from business. The husband's brother also assisted him to make money comprising his assets. The wife and the husband had otherwise made equal contribution to the home. The wife was held to have 41% share in the asset. In other words the equal share rule of 50:50 was not applied. The wife obtained less than 50% and the husband more than 50%. This was due to third party contribution made for the husband's benefit.

[51] In **S v S (Financial Provisions: Departing From Equality)**, the Court in England under their relevant Matrimonial Property Act, held that the lump sum sought by the wife on the basis of equal division would be disadvantageous to the husband given that he had a young family to support.

[52] In **Graham v Graham** (supra), the claimant was granted (40%) interest and the defendant (60%) interest in the family home. The learned judge took into account that the husband bought the house and intended to make provision for his mother who lived with him and also to make provision for a son he had from another union. She also considered that the husband's brother also contributed to the renovation and refurbishment of the home on behalf of his brother.

[53] In the instant case, the 2nd defendant's contribution was made for the benefit of her brother. She showed an interest in assisting her brother over the course of the transaction relating to Lot 358 Llandilo Housing Scheme by delivering the mortgage payments to NHT for the parties. The 1st defendant also showed an early interest in his sister by putting her name on the title to land even though she made no financial contribution to the purchase price. The 2nd defendant's contribution of her Housing Trust benefit to her brother increased the value of benefit to the home. Her benefit is of value and was some of value to the 1st defendant. It would be unreasonable and unjust to apply the equal share rule to Lot 358 Llandilo and exclude and disregard the valuable contribution of a third party (i.e sister) to the construction of the family home of her brother.

[54] Therefore, it is my opinion, that the equal share rule should be varied for the “family home” Lot 358 Llandilo Housing Scheme, Westmoreland to account for the third party contribution of the 2nd defendant. To this extent, I am unable to agree with Dr. Randolph Williams’ submission, that the 2nd defendant is entitled to a one third (1/3) beneficial interest in the home on the same ground that her name was placed on the title as one of three joint legal owner of the land.

[55] In my judgment the fair division of the share of this family home between the claimant and the defendant is 45% to 55%.

[56] The Court’s Order is as follows:

- (a) That the Claimant is entitled to the forty-five percent (45%) interest in the family home located at Lot 358 Llandilo, Sav-la-mar P.O., Westmoreland and the 1st Defendant fifty-five percent (55%) interest in the said family home..
- (b) That a valuation agreed upon by the Claimant and the 1st Defendant be taken and that costs of same be shared equally by the parties.
- (c) That if no valuator can be agreed upon then one shall be appointed by the Registrar of the Supreme Court.
- (d) That the 1st Defendant be given first option to purchase the said property, within thirty (30) days of the receipt of the valuation.
- (e) That in the event the 1st Defendant is unable to purchase, within the prescribed time, the said property be put on sale on the open market or by public auction or by private treaty.
- (f) That the Registrar of the Supreme Court be empowered to sign any and all documents to make effective any and all orders of this Honourable Court if either party is unable or unwilling so to do.
- (g) Each party bear their own costs

(h) Liberty to apply