

B v B [2015]

[2015] EWHC 210 (Fam)

05/03/2015

Barristers

Charles Hale KC

Court

High Court Family Division

Practice Areas

Financial Remedies

Summary

Appeal by husband against an order in financial remedy proceedings which related to shares belonging to the husband.

Facts

The parties divorced after a marriage of 14 years. They were both in their early 40s and had 3 children aged from 3 to 10 years. The wife was a full-time mother and the husband a successful businessman. The husband appealed an element of the order of District Judge Robinson in respect to the division of the husband's shares. The judge had ordered the proceeds of the sale of the shares to be split 60:40 in favour of the husband as and when the shares were realised. Thereby the wife would receive a lump sum payment or a series of lump sums.

The husband preferred an arrangement by which the wife was paid a lump sum of £25,000 (taken from his share of the proceeds of the sale of the family home) and he retained ownership of all the shares. Under the rules of the shares, they could not be the subject of a transfer of property order.

At appeal, the husband argued that the finality of a clean break should be preferred to the more open-ended approach taken by the judge in the lower court. The appeal court noted, however, that the case had not been concluded on the basis of a clean break as District Judge Robinson had also ordered payments of spousal and child maintenance and there was a school fees fund.

Held

Bodey J considered the approach adopted in the lower court; noting that the judge had referred to the guidance of Mostyn J in *FZ v SZ and Another* (Ancillary Relief: Conduct: Valuations) [2011] 1 FLR 64 and had also applied the reasoning in *Evans v. Evans* [2013] 2 FLR 999 properly. Bodey J determined the lower court had been both right in seeking to achieve fairness between the parties, and reasonable to consider the particular circumstances of the case and, in particular, the problem caused by the impossibility of transferring ownership of a proportion of the husband's shares to the wife. As a result, it

could not be said that the judge had been wrong and the appeal was dismissed.

Permission

Family Law Week 