

C v C (Financial Relief: Short Marriage)

[1997] 2 FLR 26

17/12/1996

Barristers

Private: Jonathan Cohen QC

Court

Court of Appeal

Facts

The parties met when the wife was working as a high-class prostitute. In 1992 they married, had a child and separated. Following the wife's application for ancillary relief, the husband was ordered to pay:

1. (a) to the wife, a lump sum of £195,000 and upon payment of this she was to vacate the property and transfer her interest in it to him;
2. (b) to the wife, periodical payments of £19,500 pa;
3. (c) for the benefit of the child, payments of £8000 pa.

It was further ordered that property of the husband's should stand charged as security. The husband appealed on the grounds that:

1. (a) the lump sum was too generous;
2. (b) any sum should be settled on the child during his minority with reversion to the husband;
3. (c) the periodical payments were too high and a term of 2 years should be imposed on the order;
4. (d) there was no need for the payments to be secured.

Held

Held - dismissing the appeal -

(1) This was a highly unusual case and its features made it unique.

(2) The lump sum awarded to the wife was fair. Need was not a paramount nor determinative factor. An objective inquiry into what was needed would be judged with an eye on the other factors set out in s 25(2) of the Matrimonial Causes Act 1973. The court would not look at what the claimant subjectively wanted, nor to bare necessity, when dealing with the question of need. It was important to ascertain the wife's reasonable requirements.

(3) The court's powers were not ordinarily exercised to provide funds directly to children. It would have been unreasonable to have given the wife a limited interest in the property considering the effect the marriage had in causing long-term prejudice to the wife's earning capacity and financial affairs.

(4) The periodical payments awards were high but did not fall outside the limits of reasonableness. The test regarding the term of the payments was whether it would be appropriate to order periodical payments only for such a term as would be sufficient to enable the payee to adjust without undue

hardship to the termination of financial dependence on the paying party. Appropriateness depended on all the s 25 checklist criteria including the welfare of the child - it was not appropriate simply to presume the imposition of a term whenever there was a short-term marriage. There was so much uncertainty in the wife's position that it would not have been appropriate to impose a term. It was always possible for the appellant to seek a variation in the future.

(5) The husband's lies, his relocation to Greece, and earlier difficulties in obtaining information as to his means, and his maintaining payments, were sufficient to warrant some form of security.

(6) It might seem that the provision for the wife was overly generous considering the length of the marriage. The total amount awarded was at the very top of the bracket, but it was a bracket with a broad discretion which was not exceeded by the trial judge.

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