Neutral Citation Number: [2024] EWHC 2062 (Ch)

Case No: PT-2022-BHM-000061

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
BIRMINGHAM DISTRICT REGISTRY

Birmingham Civil Justice Centre
Bull Street,
Birmingham

Date: 5th August 2024

Before:

HIS HONOUR JUDGE TINDAL
(Sitting as a Judge of the High Court)

- -

Between:

(1) RAJ KUMARI PASSI
(2) PAWAN KUMARI HANSRANI
(3) RAVI KANTA VIG
(4) RASHMI KIRAN PASSI

Claimant

- and -

(1) ROSHAN LAL HANSRANI

Defendant

- -

Mr David Mitchell (instructed by **MFG Solicitors LLP**) for the **Claimants**
Mr Paul Burton (instructed by **Shakespeare Martineau LLP**) for the **Defendant**

Hearing dates: 17th 18th 19th 20th 21st 24th 25th June and July 2024

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JUDGMENT

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I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

HIS HONOUR JUDGE TINDAL

HHJ TINDAL:

Introduction

1. This case is a classic example of how confusing and embittered property ownership can become within a family when it is not clearly recorded in writing, exacerbated by the absence of wills from the parents. This is multiplied as the dispute relates to not one property but eleven. As a result, a brother on one side and his three sisters on the other have between them spent over £800,000 feuding about their properties, with all the animosity and anguish which comes with that. The case was crying out for settlement, but now it falls to me to decide. After I have done so, I will have to decide which side is the 'winner' for the purposes of costs. But the truth is that in this litigation, the whole family has lost.

2. Mr Shiv Darshan Hansrani (whom I shall call 'Father') came to the UK from India, permanently from 1964 with his son the Defendant (whom I shall refer to as such or more commonly as 'Roshan'). They were joined in 1966 by Mr Hansrani's wife Mrs Kaushalya Devi Hansrani (whom I shall call 'Mother') and their three daughters, the First, Second and Third Claimants (whom I shall call 'Raj', 'Pawan' and 'Ravi' respectively). The Fourth Claimant (whom I shall call 'Rashmi'), is one of Raj's daughters. (She only played a minor role and I exclude her from the criticisms I level at the other parties). Mother and Father worked hard through the 1960s-1970s and the four children went on to successful careers. The family built up a portfolio of properties in Leicester (and Pawan's house at 812 Greenford Road, Uxbridge). In order of purchase those featuring in this case were: 65 Worthington Street (bought in 1965 and sold in 1980), 159 Nansen Road (bought in 1974), 163 Nansen Road (bought in 1978), 76 Romway Road (bought in 1979), 812 Greenford Road and 44, Bonsall Road (bought in the 1980s), 146, Nansen Road (bought in 1981), 157 Nansen Road (bought in 1984), 10 Sawley Street (bought in 1986), 11 Egginton Street (bought in 1988), 25 Lyme Road (bought in 1992), 45 Thurlby Road (bought in 1996), 164 Nansen Road (bought in 1999), 8 Quenby Street and 21, Trafford Road (bought in 2001), 15, Thurlby Road and 130, Nansen Road (bought in 2002) and 21 Bannerman Road (bought in 2005). Roshan has the sole legal title to 45 Thurlby Road and shares it on a few others but title to most of the properties is held by the Claimants. For years, he managed the rental of the properties and distributed the rent. Though nothing was in writing. That reared its head, as it so often does, when the parties fell out.

3. Mother died intestate in 2005 and Roshan, who had lived with her as well as his own family at 159 Nansen Road for many years, was her Administrator but he did not administer her estate or instruct solicitors to do so for several years and Ravi was eventually appointed alongside him. In March 2011, Roshan's marriage was unravelling and he separated from his wife, Mrs Veena Hansrani (whom I shall call 'Veena') and saw his GP for depression. Around this time, he removed his name from joint bank accounts with his sisters and in Autumn 2011, he transferred title in 159, Nansen Road (his home) and 11, Egginton Street from himself and Ravi as Personal Representatives to his three sisters, Ravi, Raj, and Pawan (and Roshan was also removed from the title of 21 Bannerman Road). Veena blamed the Claimants for the estrangement and when she reconciled with Roshan in 2019, relationships between him and his sisters deteriorated. He stopped paying them rent and in May 2022, they issued these proceedings.

4. In their Particulars of Claim, the Claimants effectively sought five remedies:

   4.1 Firstly, they sought declarations that between them individually or collectively (and not Roshan) they were not only the legal owners but the beneficial owners of 159 Nansen Road, 163 Nansen Road, 76 Romway Road, 10 Sawley Street and 11 Eggington Street. Raj also sought a declaration that she shared beneficial ownership with Roshan of 45 Thurlby Road in his name. I will call these 'the Disputed Ownership Properties'.

   4.2 Secondly, they sought consequential orders, including possession of 159 Nansen Road (Roshan and Veena's home) and 45, Thurlby Road, along with 25 Lyme Road, in which Raj and Roshan have equal beneficial shares; and recification of the title register to reflect their ownership.

   4.3 Thirdly, they claimed from Roshan as managing agent and/or fiduciary unpaid rent from the properties in their own beneficial ownership, including the Disputed Ownership Properties (except 159 Nansen Road) and what I shall call the Disputed Rental Properties: 812, Greenford Road, 8 Quenby Street, 164 Nansen Road, 21 Bannerman Road and 25 Lyme Road.

   4.4 Fourthly, Raj claimed from Roshan unpaid loans of £89,000.

   4.5 Finally, the Claimants claimed an account of all Mother's cash, gold and jewellery which passed to Roshan as her Personal Representative.

5. In his Defence and Counterclaim, the Defendant responded as follows:

   5.1 Firstly, he denied the Claimants' case and sought declarations himself that he was the beneficial owner of the Disputed Ownership Properties.

   5.2 Secondly, he sought transfer of those properties into his own name.

   5.3 Thirdly, he denied that he was a fiduciary or agent of the Claimants or indeed that there was any enforceable contract between them and denied that he owed the Claimants any rent on any of the Disputed Properties.

   5.4 Fourthly, he denied liability for any loan to Raj and counterclaimed a loan of £40,000 to her in December 2016; and a loan of £40,000 to Ravi in 2016.

   5.5 Finally, he denied that the claims in relation to Mother's estate – which he contended he did not administer - were properly constituted or in time; and in any event denied retaining any cash, gold or jewellery.

   In their Reply and Defence to Counterclaim, the Claimants denied these claims.

6. Whilst Raj had also issued a claim in the Land Tribunal about 45, Thurlby Road, that was stayed in August 2022. On 15th August 2023, DJ Rich made case management directions to this trial and on 13th September 2023, he granted the Claimants' application for the Defendant to pay them 2/3 of the net income for 10 Sawley Street and 8 Quenby Street, 1/3 of it for 164 Nansen Road, 75% for 21 Bannerman Road and 50% for 25 Lyme Road. The case came before me at Pre-Trial Review on 6th February 2024, primarily for the Claimants' application for summary judgment, which I dismissed. However, it was also clear to me that the antagonism between the parties was hampering the litigation. Statements on both sides were full of irrelevant vitriol (and inadmissible opinion evidence) about the other and I was clear that I expected both parties to focus on the issues. To that end, I ordered a more detailed list of issues in the form of a Scott Schedule.

7. I am grateful for the detailed Schedule, which I would simplify into these issues:

   7.1 What is the beneficial ownership of the Disputed Ownership Properties ?

      (i) Was there agreement as to beneficial ownership of each property ?

      (ii) Who financially contributed to the acquisition of each property ?

      (iii) Who financially contributed to mortgage or works on each property ?

      (iv) Was there any later agreement to alter beneficial ownership ?

      (v) What were the reasons for any transfer of title within the family ?

   7.2 In respect of any of the Disputed Ownership Properties, should there be a transfer of legal title, possession order for sale or any accounts ordered ?

   7.3 Should the Defendant account to the Claimants any net rental income from the Disputed Ownership Properties or the Disputed Rental Properties ?

   7.4 What loans are outstanding as between the parties ?

   7.5 Should the Defendant account to the Claimants for any family property ?

8. These issues do raise some legal questions, especially as to whether there are constructive or resulting trusts of the Disputed Ownership Properties and what orders should be made under the Trusts of Land and Appointment of Trustees Act 1996 ('TLATA'). But there is no real dispute on the legal principles and I deal with them briefly later. However, it is worth saying now that both Counsel agree there is a presumption that the equitable estate follows the legal estate, although they disagree as to its effect in this case. The Defendant, through Mr Burton, argues the crucial presumption is that of resulting trust. The gist of his case is that he bought the relevant properties, but put them in others' names, who hold them on resulting trust for him. The Claimants, through Mr Mitchell, argue the presumption of resulting trust is rebutted by the wording of the transfers if they declare the beneficial interests (in effect an express trust), or by oral agreement and detrimental reliance (in effect a constructive trust). So, the gist of the Claimants' case is that equitable title does indeed reflect legal title (save on 45 Thurlby Road) relying on the transfers, asserted agreements and asserted financial contributions. Ultimately of course, all these issues turn on the facts.

9. As I made clear to the parties both at PTR and the start of trial, it was my job to resolve the legal issues between them, not to make findings of fact about the whole history of the family over the last sixty years, or indeed for that matter every petty little dispute between them – many of which go back decades and doubtless have some roots in childhood grievances. I will limit my focus – and findings of fact – to the issues the pleadings require me to resolve. Bluntly, I doubt this will resolve all the gripes between these squabbling siblings. However, I do hope that it will bring some clarity for the younger generation, who sadly have allowed themselves to be dragged into this futile and petty dispute, so at least they are not left unaided to clear up the mess left by their parents in relation to these properties. Therefore, in this judgment, I will first analyse the evidence – written and oral – and discuss the balance between the two types given the difficulties with both. Then, I will make my findings of fact – but only on the matters I need to decide to resolve the legal issues. Next, I will consider the law – relatively briefly as it is not in dispute. Finally, I will set out my conclusions: again briefly.

Evidence

10. Before turning to my impressions on the evidence of and on behalf of the Claimants and Defendant, it is helpful first to discuss some principles relevant to their evidence to different extents. The first is that as there is a claim and counterclaim, the burden is on each party to prove on the balance of probabilities the 'facts in issue' on which their case relies, but findings need not be made on every single allegation a party makes if unnecessary for the disposal of the case. So, in *Shagang v HNA* [2020] 1 WLR 3549, the Supreme Court held that a trial judge had been entitled to reject a defence of bribery in obtaining a shipping contract on other evidence, even on the assumption that a confession to bribery had not been obtained by torture by police in another state, but without actually making a finding about it. It was the bribe that was the 'fact in issue' needing proof on the balance of probabilities, not the reliability of the confession, which was simply 'background' that did not need to be so proved. Lords Hamblen and Leggatt emphasised at [62] that judges need not make findings on parties' allegations that were unnecessary to resolve the case and added at [99]:

> "….Judges need to take account, as best they can, of uncertainties and degrees of probability and improbability in estimating what weight to give to evidence…[as to] whether facts in issue have been proved."

Likewise, if an allegation is not a 'fact in issue' and is indeed collateral or irrelevant, that is an exception to the rule that a witness must be challenged in cross-examination on any disputed point, as is a ruling by the judge limiting the time or the topics of cross-examination: *Griffiths v TUI* [2023] 3 WLR 1204 (SC).

11. Part of the evidence on which findings on 'facts in issue' may be made is hearsay evidence (also discussed in *Shagang*). It is admissible in civil proceedings under s.1 Civil Evidence Act 1995 ('CEA') even without a Hearsay Notice under s.2, but the Court must take into account its absence in weighing its weight: s.2(4). Any hearsay evidence must be weighed under s.4 CEA, including whether it was contemporaneous, whether it was multiple hearsay and whether it is adduced in circumstances which 'attempt to prevent proper evaluation of its weight'.

12. This distinction between hearsay and direct evidence is particularly important bearing in mind the risk of so-called 'Chinese Whispers' and the fallibility of memory. As is well-known, the latter was discussed by Lord Leggatt when a High Court Judge in *Gestmin v Credit Suisse* [2013] EWHC 3560 (Comm) at [16]-[22].

> "16. While everyone knows that memory is fallible, I do not believe that the legal system has sufficiently absorbed the lessons of a century of psychological research into the nature of memory and the unreliability of eyewitness testimony. One of the most important lessons of such research is that in everyday life we are not aware of the extent to which our own and other people's memories are unreliable and believe our memories to be more faithful than they are. Two common (and related) errors are to suppose: (1) that the stronger and more vivid is our feeling or experience of recollection, the more likely the recollection is to be accurate; and (2) that the more confident another person is in their recollection, the more likely their recollection is to be accurate.

> 17. Underlying both these errors is a faulty model of memory as a mental record which is fixed at the time of experience of an event and then fades…. In fact, psychological research has demonstrated that memories are fluid and malleable, being constantly rewritten whenever they are retrieved … External information can intrude into a witness' memory, as can his or her own thoughts and beliefs, and both can cause dramatic changes in recollection. Events can come to be recalled as memories which did not happen at all or which happened to someone else…
>
> 18. Memory is especially unreliable when it comes to recalling past beliefs. Our memories of past beliefs are revised to make them more consistent with our present beliefs. Studies have also shown that memory is particularly vulnerable to interference and alteration when a person is presented with new information or suggestions about an event in circumstances where his or her memory of it is already weak due to the passage of time.
>
> 19. The process of civil litigation itself subjects the memories of witnesses to powerful biases. The nature of litigation is such that witnesses often have a stake in a particular version of events. This is obvious where the witness is a party or has a tie of loyalty…to a party to the proceedings….
>
> 20. Considerable interference with memory is also introduced in civil litigation by the process of preparing for trial. A witness is asked to make a statement, often……when a long time has already elapsed since the relevant events. The statement is usually drafted for the witness by a lawyer who is inevitably conscious of the significance for the issues in the case of what the witness does nor does not say. The statement is made after the witness's memory has been 'refreshed' by reading documents. The documents considered often include statements of case and other argumentative material as well as documents which the witness did not see at the time or which came into existence after the events which he or she is being asked to recall. The statement may go through several iterations before it is finalised. Then, usually months later, the witness will be asked to re-read his or her statement and review documents again before giving evidence in court. The effect of this process is to establish in the mind of the witness the matters recorded in his or her own statement and other written material, whether they be true or false, and to cause the witness's memory of events to be based increasingly on this material and later interpretations of it rather than on the original experience of the events.
>
> 21. It is not uncommon (and the present case was no exception) for witnesses to be asked in cross-examination if they understand the difference between recollection and reconstruction or whether their evidence is a genuine recollection or a reconstruction of events. Such questions are misguided in at least two ways. First, they erroneously presuppose that there is a clear distinction between recollection and reconstruction, when all remembering of distant events involves reconstructive processes. Second, such questions disregard the fact that such processes are largely unconscious and that the strength, vividness and apparent authenticity of memories is not a reliable measure of their truth…."

(I reviewed some of the psychological and judicial discussion of memory since *Gestmin* in more detail in *Takhar v Gracefield* [2024] EWHC 1714 (Ch) [62 ff]).

13. It is precisely this concern which fed into the changes to trial witness statements introduced in 2021 in Practice Direction 57AC. Its Appendix states:

> "2.2 In trials in the Business and Property Courts, often many matters of fact do not require witness evidence, either because they are common ground or because witness testimony adds nothing of substance to the disclosed documents…[I]ssues concerning what disclosed documents mean or show does not, without more, mean that witness evidence is required.
>
> 2.3 Factual witnesses give evidence at trials to provide the court with testimony as to matters of which they have personal knowledge, including their recollection of matters they witnessed personally, where such testimony is relevant to issues of fact to be determined at trial, and: (1) a matter will have been witnessed personally by a witness only if it was experienced by one of their primary senses…or if it was a matter internal to their mind (for example, what they thought about something at some time in the past or why they took some past decision or action), (2) for the avoidance of doubt, factual witness testimony may include evidence of things said to a witness, since the witness can testify to the statement made to them, if (a) the fact that the statement was made to the witness is itself relevant to an issue to be determined at trial or (b) the truth of what was said to the witness is relevant to such an issue and the statement made to the witness is to be relied on as hearsay evidence.
>
> 2.4 The duty of factual witnesses is to give the court an honest account of matters known personally to them (including, if relevant…what they recall as to matters witnessed personally by them or what they would or would not have done or thought if the facts, or their understanding of them, had been different). It is improper to put pressure of any kind on a witness to give anything other than their own account, to the best of their ability and recollection, of the matters about which the[y are] asked to give evidence."

For that reason, Practice Direction 57AC itself states that:

> "3.1 A trial witness statement must contain only – (1) evidence as to matters of fact that need to be proved at trial by the evidence of witnesses in relation to one or more of the issues of fact to be decided at trial, and (2) the evidence as to such matters that the witness would be asked by the relevant party to give, and the witness would be allowed to give, in evidence in chief if they were called to give oral evidence at trial…
>
> 3.2 A trial witness statement must set out only matters of fact of which the witness has personal knowledge that are relevant to the case, and must identify by list what documents, if any, the witness has referred to or been referred to for the purpose of providing the evidence set out in their trial witness statement. The requirement to identify documents the witness has referred to or been referred to does not affect any privilege that may exist in relation to any of those documents.
>
> 3.3 A trial witness statement must comply with paragraphs 18.1 and 18.2 of Practice Direction 32, and for that purpose a witness's own language includes any language in which the witness is sufficiently fluent to give oral evidence (including under cross-examination) if required, and is not limited to a witness's first or native language…

> (Paragraph 18.1 of Practice Direction 32 requires a trial witness statement to be in the witness's own words, if practicable, and to be drafted in the witness's own language and in the first person; paragraphs 18.1(1) to (5) and 18.2 set out further requirements; paragraph 23 of Practice Direction 32 provides that a party who relies on a witness statement in a foreign language must also file a translation.)
>
> 4.1 A trial witness statement must be verified by a statement of truth…and…must also include the following confirmation, signed by the witness: "I understand that the purpose of this witness statement is to set out matters of fact of which I have personal knowledge. I understand that it is not my function to argue the case, either generally or on particular points, or to take the court through the documents in the case. This witness statement sets out only my personal knowledge and recollection, in my own words. On points that I understand to be important in the case, I have stated honestly (a) how well I recall matters and (b) whether my memory has been refreshed by considering documents, if so how and when. I have not been asked or encouraged by anyone to include in this statement anything that is not my own account, to the best of my ability and recollection, of events I witnessed or matters of which I have personal knowledge. "

14. I respectfully agree with the observations of my BPC colleague in Manchester, HHJ Pearce, in *Cumbria Zoo v Zoo Investment Ltd* [2022] EWHC 3379 (Ch):

> "44. [T]he Business and Property Courts' ability to deal justly and efficiently with cases has been imperilled by the tendency of witness statements to be used for narrative, commentary and argument. The new Practice Direction 57AC…with which practitioners in the Business and Property Courts should by now be very familiar, is intended to assist the courts in dealing this problem….
>
> 51. Whilst I have come across failures of compliance with PD57AC, they have mostly been minor in nature, suggesting that lawyers have largely been able to rein in any tendency on the part of their clients to want to comment on the material before the court regardless of whether they have personal knowledge of its contents. However, this witness statement involves gross non-compliance. I have noted the judgment of the Vice Chancellor in *Greencastle v Payne* [2022] EWHC 438 (IPEC) [at 22]:
>
> > "The whole purpose of PD57AC is to avoid a situation where the witness statements are full of comment, opinion, argument and matters asserted…not within the knowledge of the witness, which have to be disentangled at trial by protracted cross-examination."….
>
> …56. In another case….recently where questions of non-compliance with PD57AC were raised, counsel suggested that solicitors might feel under pressure to sign certificates of compliance pursuant to PD57AC even where they knew that statements were non-compliant, such pressure arising from the desire of their clients to ensure that they had their day in court. If that is seen by some as a justification for signing statements that certify compliance when there has not been, practitioners need to be aware of the serious consequences this may have both for their clients and for themselves. No such justification for non-compliance was proposed here.

> 57. Had this issue come in front of me at a Pre Trial Review, I would have had little hesitation in prohibiting the Defendant from relying on the statement and considering whether to permit a replacement statement that complied with PD57AC to be served…[As] the issue did not receive judicial attention until trial[, i]t was then too late to put things right in that way. It was not realistic to edit the statement….[T]here was a significant prospect the Defendant would have been refused permission to rely on [it] …It might in fact be the case that would have made no difference to the outcome of the case, but it is an indication of the risks that parties take…"
>
> 58. In *McKinney Plant v Construction Industry Training Board* [2022] EWHC 2361, Mr Richard Farnhill sitting as a Deputy High Court Judge ordered a party whose default in compliance with PD57AC caused additional costs at a Pre Trial Review to pay those costs on the indemnity basis. In this case, it would not appear that any identifiable additional costs have been incurred as a result of non-compliance with PD57AC, but I can see little prospect of the court allowing a party who is otherwise the beneficiary of an order of costs to recover the costs of the preparation of a witness statement that is so grossly non-compliant. That is a matter which can be dealt with in this case in due course, as may be necessary.
>
> 59. If the threat of sanctions of this kind are not sufficient to deter non-compliance, witnesses, the parties who call them and their legal representatives of parties also need to realise that non-compliance with PD57AC risks undermining the credibility of the witness by exposing them to the kind of forces that Lord Leggatt JSC identified as being liable to cause distortion to witness statements. Thus, even if no sanction is imposed, the non-compliance may weaken the credibility of the witness and thereby undermine the case of the party who calls a witness in such circumstances."

I would particularly emphasise and highlight this last observation. PD 57A is there to improve the quality of evidence and to focus it more clearly on what a witness claims to remember rather than on hearsay or comment on documents.

15. PD57AC (and its enforcement) has gone some way to address witness fallibility identified by Lord Leggatt (as he has become) a decade ago in *Gestmin*. However, his own solution to it in *Gestmin* itself at [22] has been more contested:

> "In the light of these considerations, the best approach for a judge to adopt in the trial of a commercial case is, in my view, to place little if any reliance at all on witnesses' recollections of what was said in meetings and conversations, and to base factual findings on inferences drawn from the documentary evidence and known or probable facts. This does not mean that oral testimony serves no useful purpose – though its utility is often disproportionate to its length. But its value lies largely, as I see it, in the opportunity which cross-examination affords to subject the documentary record to critical scrutiny and to gauge the personality, motivations and working practices of a witness, rather than in testimony of what the witness recalls of particular conversations and events. Above all, it is important to avoid the fallacy of supposing that, because a witness has confidence in his or her recollection and is honest, evidence based on that recollection provides any reliable guide to the truth."

16. However, in *Martin v Kogan* [2020] EMLR 4 in giving the judgment of the Court of Appeal, Floyd LJ emphasised at [88]:

> "*Gestmin* is not to be taken as laying down any general principle for the assessment of evidence. It is one of a line of distinguished judicial observations that emphasise the fallibility of human memory and the need to assess witness evidence in its proper place alongside contemporaneous documentary evidence and evidence upon which undoubted or probable reliance can be placed. Earlier statements of this kind are discussed by Lord Bingham in his well-known essay '*The Judge as Juror: The Judicial Determination of Factual Issues*' (from '*The Business of Judging*', Oxford 2000). But a proper awareness of the fallibility of memory does not relieve judges of the task of making findings of fact based upon all of the evidence. Heuristics or mental short cuts are no substitute for this essential judicial function. In particular, where a party's sworn evidence is disbelieved, the court must say why…it cannot simply ignore the evidence."

17. Moreover, as Floyd LJ went on to observe in *Martin* at [89], *Gestmin* was a commercial case with plentiful documentation, but Leggatt J's approach at [22] cannot not be translated to cases where the documentary record is patchy or particular events are undocumented (as in *Martin* itself which was about how two domestic partners had authored a screenplay). In *Cumbria Zoo*, HHJ Pearce noted that in *Natwest Markets Plc v Bilta (UK) Ltd* [2021] EWCA Civ 680, the judgment of the Court (Asplin, Andrews and Birss LJJ) explained at [49]-[50]:

> "In a case such as the present, where the events in question took place over 9 years before trial and occurred in a narrow period of around 3 weeks, the salutary warnings about the recollections of witnesses in *Gestmin*….are pertinent. It was therefore of paramount importance for the Judge to test that evidence against the contemporaneous documents and known or probable facts if and to the extent that it was possible to do so. We say, 'if and to the extent that it was possible to do so', because it is important to bear in mind that there may be situations in which the approach advocated in *Gestmin* [at [22]] will not be open to a judge, or, even if it is, will be of limited assistance. There may simply be no - or no relevant - contemporaneous documents, and even if there are, the documents themselves may be ambivalent or otherwise insufficiently helpful. The case could be one about an oral promise which turns entirely on the word of one person against another's, and the uncontested facts may well not point towards A's version of events being any more plausible than B's. Even in a case which is fairly document-heavy (as this one was) there may be critical events or conversations which are completely undocumented…. Faced with documentary lacunae of this nature, the judge has little choice but to fall back on considerations such as the overall plausibility of the evidence, the consistency or inconsistency of the behaviour of the witness and other individuals with the witness's version of events; supporting or adverse inferences to be drawn from other documents; and the judge's assessment of the witness's credibility, including his or her impression of how they performed in the witness box, especially when their version of events was challenged in cross-examination….."

18. I note the Court in *Natwest* spoke of 'overall plausibility' of particular evidence rather than its 'inherent probability'. In a note of caution about the latter in his essay *'The Judge as Juror'* which is now almost 40 years old, Lord Bingham said:

> "An English Judge may have a shrewd idea of how a Lloyd's broker, or a Bristol wholesaler or a Norfolk farmer might react in some situation, but he…should feel very much more uncertain about the reaction of a Nigerian merchant or an Indian ship's engineer or a Yugoslav banker."

Lord Bingham's observation has real resonance in this case. At times in evidence, I expressed surprise and even frustration about the convoluted arrangements and lack of clear documentation with which the Hansrani family between them held their property and conducted transactions. However, in fairness, even the witnesses from the second generation also appeared to be rather puzzled about it. If even they could not fully understand, I should be extremely cautious in assuming that I understand 'the inherent probabilities' of these transactions, when I did not grow up in the same culture, let alone the same family. After all, Equity has so far only made its first few tentative steps towards 'translating itself' into the cultural language of how property is held within more 'traditional' (to use a contested word chosen by the parties here) British families of South-Asian origin. (One fascinating example is *Singh v Singh* [2014] EWHC 1060 (Ch)).

19. Having said that, Equity is extremely familiar with untangling transactions between family and friends where little is put in writing. As Lord Briggs said in the (Bahamian) case of *Whitlock v Moree* [2017] UKPC 44 at [25] and [23]:

> "Persons acquiring property, in particular residential property in joint names, at least in England, have a notoriously poor track-record in making an express declaration as to their beneficial interests in relation to the property. In the numerous cases where this has not been done, Equity has recourse to a variety of techniques for establishing what those beneficial interests are. They include the constructive or common intention trust, the implied trust and the resulting trust…..There are well-established principles which assist the courts in resolving disputes as to beneficial ownership of property, and the order in which what may be described as the contents of an equitable toolkit are to be deployed for that purpose."

20. So, this case requires that usual 'equitable toolkit' to dismantle convoluted family transactions, but with sensitivity to this family's values. But it also requires focus upon all the evidence, written and oral, including the evidence of later events, as Sir Nicholas Patten explained in *Enal v Singh* [2023] 2 P&CR 5 (PC) at [37]-[38]:

> "In…*Shephard v Cartwright* [1955] A.C. 431…Viscount Simmonds [held] the acts or declarations of the parties subsequent to the transaction are admissible as evidence only against the party who made them and not in his or her favour. In…*Antoni v Antoni* [2007] UKPC 10, para 20 Lord Scott…relied upon this…to exclude subsequent denials by the transferor of the transferee's beneficial ownership. But the more modern approach has been to treat evidence of the subsequent conduct of the parties as generally admissible and to leave the court to assess the weight to be given to it having regard to the time when and the circumstances in which it occurred. In *Lavelle v Lavelle* [2004] EWCA Civ 223, para 19 Lord Phillips of Worth Maltravers MR said:

> 'In these cases Equity searches for the subjective intention of the transferor. It seems to me that it is not satisfactory to apply rigid rules of law to the evidence that is admissible to rebut the presumption of advancement. Plainly, self-serving statements or conduct of a transferor, who may long after the transaction be regretting earlier generosity, carry little or no weight. But words or conduct more proximate to the transaction itself should be given the significance that they naturally bear as part of the overall picture. Where the transferee is an adult, the words or conduct of the transferor will carry more weight if the transferee is aware of them and makes no protest or challenge to them'".

21. Before turning to the evidence, as Mr Burton observed, it helps to start with the broad shape of the parties' cases from the pleadings:

    21.1 The Claimants' case in their Particulars and Defence to Counterclaim is essentially that their brother, the Defendant, was a 'managing agent' owing them fiduciary duties in managing their properties to account for their rent, which they say he failed to do for any of the properties since 2019 (save some limited payments in 2020) until they obtained an order in September 2023. They also complain that he has never accounted for rent in respect of his home at 159 Nansen Road, or 11 Eggington Street, or 76 Romway Road. Linked to the Defendant's subordinate role, the Claimants aver that he owes Raj money – the £89,000 loan in 2019 and they deny his transfers of £40,000 each to Ravi and Raj in 2016 were loans, but rather were distribution of sale proceeds to which Ravi was entitled and a repayment for stolen gold to Raj. Likewise, they claim as Mother's Administrator, that Roshan failed to account for her and Father's gold and other property. The Claimants present Father and Mother as the driving forces of the family's property portfolio in the 1970s and 1980s, including 159 Nansen Road bought by Father, 76 Romway Road bought by Mother, 10 Sawley Street bought by Father, Raj and Ravi in his name and after his death in 1987, 11 Eggington Street bought by Mother. They aver Pawan bought 163 Nansen Road, with the only one of the Disputed Ownership Properties bought by Roshan being 45 Thurlby Road – and even with that property claim a 50% share for Raj. Whilst they accept Roshan owns other properties fully or partly (the latter including the Disputed Rental Properties) to which he could move, they claim he is a bare licensee in his own home of 50 years.

    21.2 By contrast, the Defendant's case in his Defence and Counterclaim is that he himself – and not Father or Mother – was always the driving force and true owner of the family's property portfolio, including all of the Disputed Ownership Properties. However, he accepts the Claimants have beneficial interests in the Disputed Rental Properties, but says he paid all rents owing except between 2019 and 2023, for which he has prepared accounts. The Defendant's case is that he put properties he bought in his parents' name out of respect for them; and that he opened a joint account with Father when they arrived in the UK in 1964 because he was too young to open a sole account, but that account wit Leicester Building Society ending -519 was really his money from the start. He claims the two £40,000 loans in 2016, but denies Raj's claim for £89,000 or any claim about parents' gold etc.

21.3 Standing back and considering (to use the phrase in *Natwest*) the 'overall plausibility' of those respective narratives *in the context of this particular family* (as opposed to their 'inherent probability' using so-called 'common sense' which is an unreliable guide as explained), the immediate impression is that both sides adopt extreme positions. The Claimants' case seems to be that their brother worked for years finding properties for others to buy and managing them - lining everyone else's pockets far more than his own – yet they are vituperative about him, which is a strange attitude in that case. By contrast, the Defendant's case seems to be that he was the only one who contributed to the family's wealth. Whilst the Claimants' statements spoke of 'family dynamics', it is easier for a neutral observer like myself to see that each side's perspective has been distorted by this dispute, pushing them to adopt those extreme positions, without the insight or self-awareness to recognise it. Therefore, whilst 'demeanour' is now a controversial word in assessing witness evidence, there was a particular advantage in this case in seeing how the parties gave evidence, in order to assess (again in the words from *Natwest*) their consistency and credibility. However, oral evidence can only be part of the extremely complicated evidential picture in this case.

22. With that in mind, it is helpful to tease apart five different layers of evidence here:

22.1 The first layer is agreed facts and chronology – 'the known facts' as it was put in *Natwest*. Whilst many issues are hotly (and sometimes irrelevantly) contested in this case, there is much agreement in the parties' respective chronologies about key dates and events (like dates and details of transfers), even if the reasons for and interpretation of them is bitterly disputed. Moreover, by trial, the issues on the rent claim had narrowed substantially, as it was not in dispute that Roshan did not distribute rent between November 2019 (or mid-2020 on a couple of properties) and DJ Rich's order in September 2023 to his sisters, but they only complained of earlier outstanding rent on 157 Nansen Road, 11 Egginton Street and 76 Romway Road, which Roshan accepted he had never paid, so the rent dispute on those properties largely stands or falls with the ownership dispute.

22.2 The second layer of evidence is the documents. Yet whilst I have seven lever-arch files totalling 3000 pages, this is not a case like *Gestmin* where key transactions are carefully recorded. Nor is it even a case like *Natwest*: mostly documented with some important but limited omissions. Instead, the bundle is a miscellany of hundreds of documents accumulated over 50 years, the vast majority not mentioned at trial as they were irrelevant. Moreover, Roshan only seems to have started keeping proper records of the rents after he stopped distributing it to his sisters. Instead, there are pages of colour-photocopied undated scraps of paper, often written and re-written on old envelopes, which are not easy to decipher, still less to reconcile with the odds and ends of tenancy agreements kept on some properties, at some times, but not others. It is clear that many documents which must have once existed that have been lost in that time. Some were only disclosed at trial, which is relevant to one of the loan claims: undocumented apart from a few bank statements; as is the dispute over Mother and Father's gold and jewellery – save for one contested document. However, the documentary gap is widest for the Disputed Ownership Properties, as discussed below.

22.3 The third layer was the evidence of the witnesses for the Defendant external to the family: Kuldip Singh, Dhian Singh, Dhanji Durgai, Mohammed Hussein, Kul Kaushal and Dr Surinder Bhangoo. (There were no witnesses at all for the Claimants external to the family). In a case where so much of the family's evidence was acrimoniously partisan, all of these witnesses gave clear, reliable – if limited – evidence, which I accept. In each case, they contributed small but important brush-strokes to the overall picture. For example, Mr Durgai gave evidence that he personally sold 11, Eggington Street to Roshan who said he would put it in Mother's name. This was understandably not strongly challenged as none of the Claimants were involved in that transaction and I accept Mr Durgai's evidence. Also importantly, Mr Kaushal said that gold that Raj alleged had been stolen by Roshan's son Sanjeev in 2004 actually turned up in her property in 2005.

22.4 The fourth layer was the evidence of the wider family witnesses. On the Claimants' side, there was Raj's daughter Rashmi (who is technically the Fourth Claimant but had a very peripheral role), Raj's son Ravinder and Ravi's sons Navin and Nitin Vig (I admitted the latter's statement at the start of the trial following the editing I directed at PTR). On the Defendant's side was his wife Veena Hansrani, the wife of his cousin Kanta Hansrani and Roshan and Veena's daughter, Prinaka. Missing as a witness was their son Sanjeev who is alleged to have stolen Raj's jewellery in 2004 which is relevant to Roshan's claim against Raj for a £40,000 loan in 2016. I was not referred to the authorities on adverse inferences from absent witnesses and need not address them, as Mr Kaushal's evidence (which I accept) is more independent than Sanjeev's evidence could have been and as I shall explain later, even if he did steal gold, my decision would be the same. The real divide with all of them was between their statements and oral evidence. In each case (save with Kanta), their statements included irrelevant mud-slinging which I directed at PTR should be edited out. That tendentiousness and lack of balance seriously undermines the weight I give to what they said in their witness statements. Indeed, in Nitin's case (and to an extent with Navin's though it was not edited out), their status as doctors was used in their statements to purport to give expert evidence about Roshan's state of mind in 2011, which is flatly inadmissible because they do not have the requisite independence to give expert evidence under CPR 35. So, the statements are frankly not very much help. However, in cross-examination, whilst there were occasional partisan flashes, all the wider family witnesses tried hard to stick to what they had seen and heard themselves. This enabled me to accept much (although not all) of their first-hand knowledge. But that was often limited – especially the younger generation remembered particular events and details of the family's property dealings when they were children, but very fairly all accepted that much of their knowledge and understanding had come from them from their parents. This reinforced my view that their statements – which did not clearly distinguish first-hand from second-hand knowledge in clear breach of PD57AC - were of less value than their oral evidence and I put more weight on that accordingly.

22.5 That brings me to the final layer of evidence – the most contentious but important of all – from Roshan, Raj, Pawan and Ravi. I deal with the individual strengths and weaknesses of their evidence in a moment.

23. However, first it is fairer to each of the four key protagonists to explain three overlapping difficulties with their evidence, weakening them to different extents and making my fact-finding task quite difficult, especially on the Disputed Ownership Properties. The first is the particularly sharp differentiation in this family between legal and equitable title. I would make these points about that:

    23.1 Of course, the distinction between those two levels of ownership is fundamental in Property Law. However, as Counsel discussed in argument, there is also a different two-level distinction in this case: between what appeared to be happening to the outside world in intra-family transfers and what was actually happening as the family understood it in reality. Yet no-one alleges fraud in respect of the transfers of properties to which both sides were parties. So, whilst at one point the transfers felt like a game of 'Find the Lady' with the properties mixed up like playing cards with sleight of hand, in fairness the better game analogy was Mr Burton's suggestion of 'Musical Chairs', as (most of) the family played, if not always willingly.

    23.2 So, Roshan regularly bought a property in someone else's name within the family, for example it is agreed whilst 164 Nansen Road is in Raj's name, she only has a 1/3 beneficial share with Roshan having the other 2/3; whilst 8 Quenby Street is in Rashmi's name, she has no beneficial interest in it at all, which is in equal shares for Raj, Ravi and Roshan; and whilst 21 Bannerman Road is in the joint names of Pawan, Ravi and Rashmi, the latter has no beneficial interest, which is divided equally between Pawan and Ravi but also Raj and Roshan. He has also put other Leicester properties outside this case into the joint names of himself and his sons e.g. 21 Trafford Road and 39 New Way Road. To make matters still more confusing, it was also Roshan's practice to move legal title around in relation to the same property at different times, sometimes without even consulting the recipient. For example, in 1992 Roshan and Raj paid equal shares totalling £23,000 for 25, Lyme Road and Roshan put it in the joint names of Raj and her son Ravinder. However, no-one thought to tell Ravinder – who had only just left university and was working towards qualification as a solicitor. He only discovered this later, whilst living with his mother Raj at 157 Nansen Road, when a Council Tax Officer attended there and accused him of benefit fraud; and he insisted it be removed from his name immediately. 25, Lyme Road then appears to have gone back into Roshan's name (naturally, there is no copy of that transfer), but in 2005, he transferred it into the joint names of Raj and Rashmi. Even then, Rashmi remembers very little about that other than being asked to sign a form. Raj and Roshan in particular at times seem to have treated their adult children as chess-pieces on a board.

    23.3 For these reasons, as Counsel agreed, this family seems to have attached less significance to transfer of legal title than property lawyers would normally do. So, whilst Mr Mitchell understandably relied on the established presumption that equitable title follows legal title, as Mr Burton fairly submitted, that presumption is rather weaker on the unusual facts of this particular case than it would be if the transactions had taken place between parties at arms' length with lawyers. Therefore, tempting as it is, faced with the convoluted evidence, to throw up my hands and simply declare that equitable title follows legal title for each property, such a conclusion would duck rather than resolve the real fact-finding issues.

24. That brings me onto the second evidential difficulty, which relates to the patchy documentary record I have mentioned. For example, with 76, Romway Road, we have the original transfer into the family in 1979 – to Mother - and we have a transfer from 1998 from Ravi to Raj, but not the transfer which 'joins those dots' in 1989, only a solicitor's invoice. However, with 11, Egginton Street, 159 and 163 Nansen Road, we do not have the original transfers into the family at all. Yet we do have the transfers in September 2011 within the family from Roshan and Ravi as Mother's Administrators to Raj, Pawan and Ravi (in her own right), that are the most contested transactions of all. Indeed, we have a veritable glut of documents relating to those transfers from a solicitors' Probate file. Those documents are key to Roshan's credibility and understandably was the centrepiece of Mr Mitchell's cross-examination. But, as Mr Burton submitted, it must be seen against the context of Roshan's situation at that time and the earlier history of those – indeed all – the properties which is much less well-documented. The absence of some of the key transfers of the Disputed Ownership Properties also complicates the arguments on both sides that beneficial ownership was dealt with by written express trust. There is also nothing in writing which actually proves constructive trust; and whilst resulting trust is generally a 'last resort' (c.f. *Whitlock* at [25]), it is more of an option in this case than others. But that just raises another problem – the usual documentary foundation of resulting trust cases – bank statements evidencing contributions to purchases - is also patchy and relatively recent, so does not cover some of the key properties from the 1970s-1980s. Indeed, the bank accounts were often in turn in joint names within the family (which is why I referred Counsel to *Whitlock* about that issue), yet Raj and her children Rashmi and Ravinder contend there was a family tradition that the money truly belonged to the first-named account holder, which Roshan denies. In fact, it transpires this rather self-serving assertion is not borne out by the evidence. I simply have to do my best with the (relevant) documentation which I do have.

25. However, thirdly, Roshan, Raj, Ravi and Pawans' memories also had to do the best with the documents we have. As emphasised in *Gestmin*, it is well-known that both time and the litigation itself distort the retrieval of memories from long ago, yet the witness fervently believes that their own mind's sketch of events from back then has the verity of a photograph. This is a particular issue for Roshan over the 2011 transfers as I will explain. Moreover, as I mentioned, despite the objective evidence of Mr Kaushal that the jewellery they accuse Roshan's son Sanjeev of stealing was later found, Raj, Ravi (and their children) and Pawan still fervently believe in his guilt. Just as Pawan mixes that allegation up with other rumours of alleged thefts by Sanjeev, it has stiffened her 'memory' that Roshan wrongly retained £18,000 she found in Mother's bedroom after she died (In fact, Prinaka explained Mother counted rent money there). Ravi has convinced herself that distrust of Sanjeev over the (I repeat, alleged) theft is why Roshan transferred her £40,000 in 2016 for 'safekeeping'. However, this makes no sense as Sanjeev had no access to Roshan's money. Raj says the £40,000 Roshan transferred to her in 2016 was repayment for Sanjeev's 2004 'theft'. Yet the evidence that Sanjeev 'confessed' is quite muddled. Ravinder's statement actually says that Sanjeev admitted to shoplifting, not to theft of Raj's jewellery, yet Ravinder believed Sanjeev had confessed and this belief spread to others. Yet Raj's statement is unclear on this and does not explain why Roshan would have 'repaid' her only twelve years later when they threatened Sanjeev with the Police back in 2004.

26. That brings me to Raj, who while she gave evidence last for the Claimants is the first of them and is clearly the main driving force for this claim:

    26.1 Raj gave evidence through an interpreter, who also translated her original statement in Hindi into English in accordance with paras.18 and 32 PD 32 and para.3.3 PD57AC (quoted above). Whilst the Defendant's interpreter raised a query after Raj's evidence about the interpretation of a couple of points, there are always nuances of language that professional interpreters would approach in different ways. I am satisfied that the Claimants' interpreter faithfully interpreted Raj's evidence, relying upon her own expertise and her own translation of Raj's statement (which is not disputed). Therefore, the issues with Raj's evidence are down to herself alone.

    26.2 Despite signing the PD 57AC certificate of compliance, Raj's statement impermissibly argued the case and included matters outside her own knowledge. For example, on 11, Egginton Street, Raj gave a description of its purchase in 1988 by Mother and then after her death, its transfer in 2011 into the names of herself and her sisters and the various excuses she contends that Roshan gave for the absence of rent since, contending that he 'was lying about having an interest in the property' – which is arguing the case. However, in cross-examination, Raj accepted she had very little knowledge about 11, Eggington Street as she had not been involved in its purchase at all or in running it since. So, she has no idea what was agreed about it between Roshan and Mother – and unlike other properties does not suggest Mother gave them instructions about it. This mismatch between her written and oral evidence is down to Raj herself – not her solicitor, still less her interpreter – and weakens her reliability on the 2011 transfers of 11 Egginton Street and 159 Nansen Road (indeed, Raj barely dealt with the latter at all in her written or oral evidence, despite being the lead Claimant in a claim for possession of her own brother's home for fifty years).

    26.3 There were similar difficulties with Raj's evidence on 163 Nansen Road and 10, Sawley Street, which was largely dependent on her second-hand knowledge from Father and her sisters Pawan and Ravi respectively. Her involvement with 163 Nansen Road was peripheral. Nevertheless, on 10, Sawley Street, she could at least point to records of herself being paid rent.

    26.4 Likewise, some documents do support Raj's evidence on her asserted beneficial interests in 76, Romway Road and 45, Thurlby Road. For 76 Romway Road, there is a 1998 transfer deed which records the sale for £25,000 of a share from Ravi to Raj, with Mother the other continuing trustee and there is reference to her and Mother being tenants in common. Raj also says she had a half-share of rent until Mother's death in 2005. On 45, Thurlby Road, Raj pointed to the use of funds in its purchase in 1996 from a joint account held between herself and her brother Roshan; as well as handwritten notes consistent with her receiving some rent later on.

    26.5 However, aside from on 76, Romway Road and 45, Thurlby Road, I do not accept Raj's evidence unless supported by contemporaneous documents. This is also because of her unreliable evidence on other parts of the case, like loans by Roshan in 2016 and to him in 2019; and missing jewellery that had been stored in a deposit box. I have already discussed the evidential difficulties with Raj's account about the 2016 loan. On the other issues:

(i) Raj alleged that Roshan had drawn up a list of Mother and Father's jewellery that he had kept in the safety deposit box Roshan had with Raj and had given a copy of the jewellery and list to Ravi but later taken it back off her. However, Raj does not actually say that she saw and identified the jewellery, which Roshan says in that box belonged to himself. This is not the first rash accusation of theft Raj has made relating to the deposit boxes. Later she accused HSBC itself of stealing gold from a deposit box she held with Pawan, that was never proved. It seems that when something goes missing, Raj alleges theft.

(ii) Moreover, Raj's evidence about her 'loan' in 2019 of a total of £89,000 is undermined by documentation that she failed to disclose until I asked about it, after she had given evidence, when Roshan was being cross-examined about it. Raj's pleaded case and her statement stated that in 2019 she loaned Roshan £89,000 for his other son Virat's house – comprising £15,000 that March and another £74,000 that November. However, in her evidence, Raj appeared to accept that in 2019 she had also returned Roshan money from accounts she had previously held in joint names with him from which his name had been removed. Roshan in evidence insisted that £89,001.35 had come from Raj, but this was returning his own money from the accounts from which his name was removed in March 2011, six months before the transfers of 159 Nansen Road and 11, Eggington Street. Sure enough, when I asked for clarification of the source of the funds paid to Roshan by Raj in the March 2019 withdrawal of £15,000 and two November 2019 cheques totalling £74,001.35 (£64,381.35 and £9,620), Raj disclosed further accounts showing the £64,381.35 and £15,000 originally came from a joint account with Roshan from which his name had been removed in March 2011, although Raj said the money belonged to herself. She was not sure of the source of the £9,620 in the third cheque but received it in 2015. I will find this entire £89,001.35 was not a loan at all, simply the return by Raj of Roshan of his money. Indeed, a loan would make no sense given the deteriorating relationship between Raj and Roshan by late 2019.

27. There were also problems with Ravi's evidence. In fairness I am conscious that she has struggled with her health for many years. However, the fact remains that large sections of her statement were irrelevant and bordering on spiteful to Roshan so I excised them at PTR. It is plain that Ravi dislikes her brother for reasons unrelated to this case. That is her prerogative, but it plainly means her evidence is not balanced and it also weakens the objectivity of the evidence – especially in their witness statements - of her own sons Navin and Nitin Vig. It also undermined Ravi's evidence that Roshan in October 2018 demanded a bag of Mother and Father's jewellery and used aggressive and violent language towards his sisters (which he denies). Yet, whilst Ravi's statement plays up the drama and emotion, it does not actually say that Roshan *took* the bag from her - the pleaded allegation - and her belated assertion that he did in oral evidence was unconvincing. Moreover, again despite signing the PD57AC declaration, Ravi accepted in cross-examination that much of her understanding about the purchase of the properties came from others. Again, I cannot accept Ravi's evidence unless corroborated by contemporary documents. But they partly support three points:

27.1 Firstly, Ravi's evidence that she had a third share of 10, Sawley Street in 1986 along with Raj is corroborated by rent payments to them both recorded in Mother's ledger throughout the 1990s. This supports Ravi's recollection that she contributed a third to the purchase price, as did Raj. However, whilst I accept Father told Ravi and Raj they each had third shares, Ravi's recollection that Father contributed the other third is disputed by Roshan, as part of that other third came from a joint account between himself and Father which he contends was in fact all his own money.

27.2 Secondly, Ravi's evidence that in 1989 she took a half-share in 76 Romway Road is corroborated – as I said by a solicitor's invoice; and her sale of her half-share to Raj in 1998 for £25,000 is evidenced by a transfer consistent with that. I accept Ravi's evidence she did in fact receive £25,000 from Raj, which Roshan cannot gainsay even in the absence of a bank statement (as much of his evidence is not corroborated with them either). However, whilst this contradicts Roshan's claim to the whole beneficial estate in 76 Romway Road, it is not inconsistent with him having the other half-share, as Ravi does not address what happened to Mother's half-share, which was not part of her declared estate in which Ravi and Roshan were Co-Administrators.

27.3 Thirdly, Ravi's account of her limited involvement in that role in 2011-12 is corroborated by the solicitor's Probate file, in which the instructions came exclusively from Roshan. However, Ravi's contention that Roshan told her, Raj and Pawan in August 2011 that he wanted to transfer to them 159 Nansen Road and 11 Eggington Street is different from Raj's vaguer evidence and Pawan does not mention such a discussion in her statement - indeed, she says Roshan told her about those transfers in 2012 in the USA.

28. On that subject, Pawan's absence living in the USA from 1984 (and not living in Leicester with the rest of the family from the mid-1970s) means that her evidence is less central than that of Raj and Ravi. Unfortunately, one could not have told that from her statement, which is extremely detailed and which understandably led Mr Mitchell to call Pawan first. Yet in cross-examination, Pawan accepted most of her understanding of events since the early 1980s depended on what her siblings had told her – i.e. was hearsay. Despite Pawan having a PhD, I had to explain to her the PD57AC declaration that her evidence should be based upon her personal knowledge. Since her statement was unclear as to the source and reliability of much of her understanding, some even seeming to be multiple hearsay, I cannot attach very much weight to large sections of her evidence. However, Pawan could give reliable first-hand evidence on three topics:

28.1 Firstly, Pawan gave clear personal evidence about the purchase and the management of rent on the properties in her name – in particular 163, Nansen Road, but also 812 Greenford Road in Uxbridge - corroborated by contemporary documents supporting her ownership and receipt of rent.

28.2 Secondly, Pawan gave evidence I accept that in the aftermath of Mother's death as she flew back to the UK that day and I accept collected the jewellery that Mother was wearing and £18,000 in cash in her bedroom, which she gave to Roshan. He accepts still having the jewellery and as I have said, Prinaka recalled Mother counting Roshan's rent cash in her bedroom. Yet that is more consistent with the cash belonging to Roshan, not to Mother.

28.3 Thirdly, Pawan was staying at 159 Nansen Road in March 2011 at the time of Prinaka's wedding and can give evidence in relation to that issue and the Lasting Power of Attorney Roshan granted following it. However, as I mentioned in relation to Ravi's evidence, Pawan does not claim to have been present at the discussions between Roshan, Raj and Ravi in August 2011 about the transfers of 159 Nansen Road and 11 Eggington Street and I find again the evidence of Pawan (and to an extent Raj) is reliant on Ravi's supposed recollection of the transfers, but also what Roshan said.

29. I turn lastly to Roshan's evidence. I start with the difficulties. As I said, Roshan's pleaded case is extreme – that he fully beneficially owns all the Disputed Ownership Properties, despite only one of the six of them being in his name. That is difficult to square with those parts of Raj, Pawan and Ravi's evidence supported by documentary evidence I have found reliable, such as Pawan on 163, Nansen Road, Raj and Ravi on 76 Romway Road and 10 Sawley Street and Raj on 45 Thurlby Road. Yet on the other two Disputed Ownership Properties, 159 Nansen Road and 11 Eggington Street, especially the 2011 transfers, there is not so much documentary support for Raj, Pawan and Ravi as documentary contradiction to Roshan's account. Here, as Mr Mitchell said, Roshan's account that he was depressed, vulnerable and influenced by his sisters into the transfers, is difficult to square with the file of the solicitors handling Mother's Probate, Freeths:

29.1 Whilst Roshan's Defence and Counterclaim pleaded that he 'took no part in the administration of Mother's estate', the Freeths file shows Roshan himself instructed them in February 2011. Whilst Ravi was involved by April 2011 as Freeths suggested a joint Administrator, even from then on it was still Roshan giving the instructions in regular telephone contact with Freeth's solicitor Ms Patel. Ravi only attended a few meetings and even then, Roshan did all the talking. Roshan as well as Ravi as Mother's 'Executors' (strictly as she died intestate, Administrators) transferred 159 Nansen Road and 11 Eggington Street to Raj, Pawan and Ravi for nil value in September 2011.

29.2 Moreover, there is no support in Freeth's file for Roshan's case that he fully owned 159, Nansen Road and 11 Eggerton Street, but was influenced by his sisters to transfer them to them in 2011 when depressed to avoid his then-estranged wife Veena having any claim. Roshan not only told Ms Patel that 159 Nansen Road and 11 Eggerton Street belonged to Mother, he signed formal declarations and oaths for the Probate Registry and HMRC on Inheritance Tax to that effect, even though his own claim on the properties would have reduced any liability to tax. Ms Patel recorded that she 'took him through those forms very carefully and in detail' and that Roshan signed 'only once he was satisfied'. Not once did he claim ownership of them. Moreover, whilst Roshan – prompted by queries from HMRC - explained delay between Mother's death in 2005 and his belated Probate application in 2011 as referable to his depression, he did not say he still suffered from it.

29.3 Furthermore, once Mother's estate was resolved, in February 2012, Ms Patel discussed with Roshan (again, not Ravi) the distribution of the net property balance. Roshan still did not mention any claim to 159 Nansen Road and 11, Eggerton Street. On the contrary, Ms Patel noted that 'he wanted the two properties to be put in the names of his three sisters' and he wanted to gift his quarter shares and he would keep the c.£20,000 cash in Mother's estate.

> Ms Patel advised Roshan that a deed of gift be drawn up. However, when she went through it with him in March, he told her that 'he had spoken with his sisters and they are actually going to pay him it by bit for his quarter share of the propert[ies] he has given to them…He owes his sisters money they owe him some money so they are sorting it out'. Understandably, Ms Patel was rather exasperated about this change of tack and said it 'made a mockery of the deed of gift'. She also expressed concern that his home, 159 Nansen Road, was now in his sisters' names and that his wife and children could claim against his estate when he died. Roshan replied that he was 'not concerned as he was planning to leave a sufficient amount to his family'.

Mr Mitchell's submissions about this evidence can be encapsulated in three points: (i) Freeth's file showed Roshan was lying about this topic and generally; (ii) in any event, Freeths's file was inconsistent with Roshan's case that he was vulnerable and driven by his sisters into transferring the two properties to prevent Veena claiming them on divorce; (iii) but that it was consistent with the Claimant's case that these transfers were simply distributions of Mother's estate. In my judgement, whilst there is force in each of these points, ultimately I do not accept that Roshan's evidence should be rejected. I will address them in reverse order.

30. I certainly accept that what Roshan told Ms Patel is consistent with the Claimant's case that the 2011 transfers of 159 Nansen Road and 11 Eggington Street were straightforward distributions of Mother's estate over which Roshan disavowed any claim. However, the consistency of that narrative with Freeth's file does not mean that the narrative has 'overall plausibility' with all the evidence for several reasons:

    30.1 Ms Patel herself queried it with Roshan – pointing out it meant he had no claim to 159 Nansen Road which had been his home for (then) c.40 years.

    30.2 Whilst Ms Patel would not have known, it also meant Roshan surrendering 11 Egginton Street, which the evidence – including that of Mr Durgai who sold it to him – clearly proves that Roshan had the sole beneficial interest in.

    30.3 Stepping back from these two transfers and looking at the family's property transactions involving Mother in the round, they are inconsistent with Ravi's explanation in para.53 of her statement (as I said, different from Pawan's and Raj's), reflected in the Particulars of Claim: that Roshan did not want any claim over 159 Nansen Road and 11 Egginton Street because he had already taken his share from Father and Mother's estate by using proceeds from 65 Worthington Street to buy 44 Bonsall Street then sell that to buy 21 Trafford Road, now in Sanjeev's name. That may be true, but I will also find that Roshan also paid for 76 Romway Road and contributed to 10, Sawley Street's purchase, but both had already passed to Ravi and Raj (in slightly different ways) in the 1990s before Mother's death. Therefore, they had all already benefitted to some extent (as had Pawan), so this point did not explain why Roshan selflessly would gift away his own home and property.

    30.4 Moreover, Roshan also removed his name from other assets in 2011. Only a few days after the September 2011 transfers of 159 Nansen Road and 11 Egginton Street, Roshan also removed his name from the quarter-share in legal title to 21 Bannerman Street, even though the Claimants accept he still has a beneficial quarter-share. Moreover, back in March 2011, in the fallout from Prinaka's wedding, Roshan also removed his name from his joint

accounts with Raj at the Chelsea Building Society, as I discussed in relation to her 2019 'loan' claim for £89,000. When seen in the wider context of these transactions, it is even more implausible that Roshan would agree to waive his claims to 159 Nansen Road and 11 Egginton Street as part of a distribution of Mother's estate: giving away a huge tranche of property.

30.5 Furthermore, Roshan's explanations to Ms Patel at the time about the rationale are not consistent with the Claimants' case. He initially said he was 'gifting' the properties to his sisters as he was taking the cash in Mother's estate – which from the estate accounts was just under £21,000. Yet it is the Claimant's case that Roshan should return £18,000 of Mother's cash with Pawan found in her bedroom. In any event, Roshan then changed his instructions to say his sisters were going to pay him for his intestacy quarter-shares in 159 Nansen Road and 11, Egginton Street by mutual accounting of debts. However, no-one suggests that has ever actually happened. If anything, as mentioned in relation to the loan claims, the evidence suggests that Roshan has given them more money than they have ever given him.

Therefore, the Freeth's file is only partly consistent with the Claimants' case.

31. Likewise, Freeth's file is only partly inconsistent with the Defendant's case. As I have said, Roshan says he transferred 159 Nansen Road and 11 Egginton Street when (i) he was vulnerable and depressed under the influence of his sisters who wanted (ii) to stop Veena having any claim on them in any divorce. I have separated out those two propositions because in my judgement, whilst the Freeth's file is certainly inconsistent with (i), it is not inconsistent with (ii).

31.1 On (i), I accept Freeths file is flatly inconsistent with Roshan's unpursued 'undue influence' allegation – it shows that he was unquestionably the driving force behind the 2011 transfers. However, that is not to say that he was not actually depressed at the time. After all, in March 2011, whatever exactly happened (on which I make findings later), on the day of Prinaka's wedding, he ended up separating from Veena and was estranged from his children – it is hardly surprising he was depressed. Whilst Navin and Nitin – both doctors – and his sisters did not notice Roshan was depressed, he attended a GP a few days after the wedding on 16th March and again on 27th April and 24th May 2011 and was prescribed anti-depressants. Both Navin and Nitin fairly accepted they would have to defer to the clinical diagnosis of the GP who saw Roshan – as I said, they are not here as expert witnesses. Indeed, whilst Roshan did not mention that depression to Ms Patel from Freeths, he did cite depression to her as his reason for delaying Mother's probate application. Moreover, in March 2011 Ms Patel arranged Roshan's Lasting Power of Attorney in favour of Pawan, Nitin and Ravinder. Yet this did not govern Roshan's property and affairs as one might expect – but his health and welfare, suggesting either a mistake about the type of LPA or that Roshan was indeed concerned about his health, otherwise it would have been a waste of time (but Nitin satisfied himself at the time Roshan had mental capacity to make the LPA). However, as I pointed out when we were getting rather bogged-down on the 'depression' point in cross-examination on both sides, that does not mean Roshan was still depressed in September 2011 when he signed the transfers. In any event, Freeth's file shows he was the driving force in that process and later, including stopping the deed of gift.

31.2 However, far from being *inconsistent* with part (ii) of Roshan's case on the 2011 transfers, the transactions documented in Freeths's file are *consistent* with the purpose Roshan now gives for the transfers – to hide them from Veena in any potential divorce - although not for the reasons that he gave to Ms Patel at the time. After all, he was the person with most to gain by preventing a claim by Veena on 159 Nansen Road and 11 Egginton Street (and for that matter, 21 Bannerman Road and the joint accounts with Raj). It was Roshan's own evidence that he had deliberately never put properties in Veena's name even before 2011, as he said in his statement at paras. 46, 48 and 59 (albeit blaming his sisters for that as he did for the transfers in 2011):

> "My sisters did not get along with my wife from the outset. I relied on my sisters and trusted them greatly so this had a negative impact on my marriage as I thought it was going to fail….My sisters would always tell me not to buy any property in my name in case we had a divorce and told me I would lose my properties…..Despite legal title or beneficial ownership I still managed the properties. Again, I did not put them in my name as mistrust with wife. I relied on sisters judgment as I thought had my best interests at heart."

Indeed, he added in his statement at paras 91-92 about the 2011 transfers:

> "Rita Patel at Freeths made it clear to me that I am losing everything *but I told her don't worry I have an arrangement with my sisters and I will get it back later. She did say that I need to be more transparent of my deals but I didn't want to tell her what we were doing.* I had to pay for all of this myself. I didn't take much notice as I was very depressed during this period and because of my family being broken up. Rita Patel was asked by my solicitor to provide a witness statement but advised them she had no recollection of the matter."

As I have italicised, it is Roshan's own evidence that he freely admits that he was not straightforward with (i.e. he lied to) Ms Patel about the reasons for the transfers in 2011, as their purpose was to use the Probate process to hide the properties from his newly-estranged wife Veena in the potential divorce he had long feared (following Raj and Ravi's own divorces). He simply blames his sisters for that.

32. This then leads to the question of not so much *whether* Roshan was lying, but *when and to whom* he was lying about the 2011 transfers. Was it to Ms Patel (and in his signed oaths) in 2011 or to me in evidence ? It is true that Roshan has persisted with the line that the plan to hide properties from Veena was his sisters' and not his own, which as I have said is unconvincing. However, that does not mean that was not the actual plan at that time, even if he was the driving force behind it with his sisters' willing help. As encapsulated in the well-known *Lucas* direction, witnesses can lie for various reasons – one is because their whole case is a lie, but another is a foolish attempt to bolster what is actually a perfectly good case. A lie does not necessarily mean the whole of their evidence should be rejected – it depends on the lie. Having had the benefit of watching Roshan's response to Mr Mitchell's skilful and detailed cross-examination, in particular on the Freeths file, in my judgment Roshan was indeed lying to Ms Patel in 2011 and to some extent he was seeking to excuse that lie by not being fully open about it even now – especially to his wife Veena and daughter Prinaka – and even perhaps to himself:

32.1 It is more plausible that Roshan was lying to Ms Patel in 2011 about the true purpose of the transfers of 159 Nansen Road and 11 Egginton Street (to hide them from any claim by Veena in any potential divorce) than he was telling the truth that this was a estate distribution to the sisters who *on their own case* had already benefitted as much as he had. The story Ms Patel was being told - that Roshan was selflessly surrendering his rights, if only under the intestacy even if not beneficially, to his own home for 40 years for only £20,000 and his existing interests in the other properties which were no greater than his sisters - makes no real sense even in the context of this family. Indeed, it makes no sense *particularly* in this family with its tradition of split legal and beneficial ownership when Roshan had – even on his sister's case – found the properties and managed them. Indeed, Ms Patel herself queried this story at the time because it left Roshan not owning his own home and at risk if his sisters tried to remove him (as they now are). She queried it even further when the story suddenly changed to Roshan 'selling' to his sisters his intestacy quarter-shares in 159 Nansen Road and 11 Egginton Street as part of some vague mutual accounting of debts that is not part of anyone's case (the contested loans came later in 2016 and 2019).

32.2 If the real plan in 2011 was as Roshan says (leaving aside *whose* plan it was) to hide those properties from Veena in any potential divorce, of course Roshan would not be open about that with Ms Patel – and admits he was not. Moreover, this 'asset-hiding' plan on divorce has some family precedents, with the transfers of Ravi's half-share in 76 Romway Road to Raj in 1998 around the time of Ravi's divorce for £25,000; and Roshan's own mortgage on Ravi's property at the same time, which is remarkably formal for a family which on each side's case was quite happy to loan substantial sums without any paperwork. After all, by 2011, whilst Mr Mitchell is right to point out that Roshan had legal and beneficial interests in other properties outside these proceedings (like 130 and 146 Nansen Road, 39 New Way Road and 21 Trafford Road), some were also in the names of his (by then estranged) sons and it was not realistic to 'hide' those or indeed those in his own name. By contrast, 159 Nansen Road and 11 Egginton Street had never been in Roshan's name and by Mother's death were in her name. It is no coincidence that the Probate process – which Roshan had not instigated for six years since Mother's death – was initiated by him just as his marriage was falling apart, with the trigger point the debacle over Prinaka's wedding in March 2011.

32.3 However, Roshan and Veena (and Prinaka, supporting her father throughout the trial in court) have now reconciled. They have done so by blaming problems not on Roshan, but on his sisters, as Veena said in her statement at para.4

> "My relationship with Roshan caused his three sisters to display hostility, jealousy, envy and hate towards me. This caused significant marital problems between myself and Roshan, all instigated by his sisters. They encouraged him to behave unjustly towards me and he was advised to distance himself from me and our children and allocate as many properties as possible in his sister's names and their children's names instead of allocating his properties to his wife and his own children, or retaining them in his name for the benefit of him and his family."

33. Whilst Mr Mitchell relied on this last point as *undermining* Roshan's evidence, to my mind, in truth it *explains* Roshan's evidence. This is what he has told his wife and daughter (and possibly his sons, though they did not give evidence) to excuse his behaviour in 2011 which prompted the long estrangement. Here 'demeanour' (to use that complicated and contested word) has some relevance. Not in the old-fashioned discredited way definitively dismantled by Lord Bingham in his great 1980s essay of preferring one witness over another because of their confidence and the plausibility in their story – as he said, the hallmark of confidence tricksters down the ages. Instead, what I mean by Roshan's 'demeanour' in this context is more subtle. As Mr Mitchell also spotted, Roshan was evidently far more pained and hesitant on this subject than on any other, incredibly reluctant to be drawn into or to give away what he meant by 'removing risk' by not placing properties in Veena's name (including 45 Thurlby Road in 1996, which was his original plan with Mother until he changed it to himself and Mother's joint names). However, my conclusion is different from Mr Mitchell's in the light of all the evidence. In my judgement, Roshan's evident discomfort in evidence on this subject did not stem from dishonesty, but rather from guilt. He did not want to be open about what he meant by 'removing risk' in front of his daughter in giving evidence, because of his guilt and shame about what he had done in the past. When one reads between the lines of his statement and oral evidence, it is clear that he had *never* wanted to put properties into Veena's name in case they got divorced, just as his sisters Raj and Ravi had done. After all, he seemed to put properties in everyone else's name but Veena – he even preferred his niece and nephew over his wife for this purpose. However, that does not mean that Roshan's evidence on this subject was a full-blown lie. As I say, I accept that the plan was indeed to hide 159, Nansen Road and 11 Egginton Street from any claim by Veena. I also accept that Roshan's sisters (or at least Ravi and Raj, as Pawan only discovered it later) were fully signed-up to that plan. After all, 159 Nansen Road had been their parents' home and was next door to Raj's home. Of course they did not want Veena ending up with it if divorced from Roshan. Ravi, Raj and Roshan had helped 'keep properties in the family' during Ravi's divorce in 1998 (76 Romway Road and Ravi's home at 104 Downing Drive) and did so again, with 11 Egginton Street thrown into the package as also in Mother's name. Moreover, I also accept Roshan was generally depressed – as the GP notes in March-May 2011 demonstrate – even if he hid it from his sisters and nephews: even the doctors Navin and Nitin. I accept all that, but not that he was so depressed to be under the influence of his sisters. That was a 'spin' on the truth for the benefit of his wife and children, not a lie. For all these reasons and others, I will find on the balance of probabilities it was a *joint* plan.

34. Indeed, in other respects, Roshan's evidence was reliable, even allowing for the difficulties with his evidence on the 2011 transfers and 163, Nansen Road, 76 Romway Road and 10 Sawley Street and 45 Thulrby Road. His statement did not entirely comply with PD57AC, in that it made detailed reference to documents all the way through, rather than focussing on his first-hand knowledge. However, under cross-examination, it became clear that Roshan had a command of the detail which was not simply based on documents, but on his own calm, careful and clear recollection – after all, he was the one who ran all the properties for decades, even if he was not a brilliant record-keeper. Moreover, as Mr Burton submitted, at certain key moments, Roshan's evidence had the clarity of detail and nuance strongly suggestive of accurate recollection – 'the ring of truth':

34.1 When Mr Mitchell challenged Roshan's assertion that he bought the family's first property - 65, Worthington Road, in 1965 only a year or so after Roshan's arrival from India – Roshan responded with intricate details: living with his father and uncle in cramped premises; his uncle encouraging him to get on the property ladder whilst Father was then not interested; and even the image of the estate agents with the Building Society inside.

34.2 Of course, Roshan made clear mistakes about those early decades – for example overestimating his salary as a schoolteacher in 1979 as £20,000, which I accept would not be made up even with a series of additional part-time roles. However, his detailed recollection of them – teaching in a prison working in a market, being a bus conductor – again supported Roshan's strong work ethic in the early years in the UK and his drive inherited from his uncle to buy properties. Whilst Pawan at that time was earning good money as a pharmacist, Raj was not – she said herself she had no spare money in the 1970s and nor did Ravi. Yet their evidence – except on a couple of the properties as I have said – was vague and second-hand as they admitted. Indeed, Mr Mitchell pointed out repeatedly to Roshan the Claimants could not gainsay some of what he said as he did not involve them, but as Mr Burton said, that is the whole point, they *could not* gainsay him (However, of course Roshan has the burden of showing a beneficial interest).

34.3 On some topics – including the jewellery and property issues, despite Mr Mitchell's technical pleading points, this is a simple dispute of fact between Roshan and his sisters where Roshan's evidence was clearer and more reliable, for the reasons already given in relation to his sisters' evidence.

35. So, where does all this leave my own approach to the evidence if I cannot wholly accept the evidence for the Claimants on one side or Defendant on the other ? And where the documentary record is patchy and where even some documents which I do have do not always mean what they appear to say ? Here, I think cautious reliance on another old judicial cliché helps: 'actions speak louder than words', although by 'words' I would include words in transfers and other documents prepared by third parties. Ultimately, I place more weight on how these siblings *actually interacted with each other over time* – especially from 2011 and 2019 when Roshan was 'in their camp' and estranged from his wife and children – than what they purported to say in transfers, when there was a long-standing family tradition of marked divergence between legal and equitable ownership. I also place particular weight on the financial position of family members at the time and the actual later distribution of rent as evidence of the earlier understanding (*Enal*). I will call this actual rather than formal reality 'the actual position'. However, that is not straightforward as Roshan did not keep proper clear accounts, so to an extent he is reliant on fragments of notes and memory. Otherwise, I must simply do my best with the complex evidence I have, giving weight to all the different types of it in the holistic way described in *Natwest*. However, on several topics, I believe I can safely accept the broad thrust of Roshan's evidence, *except where* it is contradicted by: (i) 'the actual position' as I have explained it; *and/or* (ii) documents which on all the evidence I find reliable on their face; *and/or* (iii) on the specific subjects on which I have found the evidence of Raj, Ravi and (particularly) Pawan to be reliable as discussed above, which particularly relates to 163 Nansen Road, 76 Romway Road, 10 Sawley Street and 45 Thurlby Road.

Findings of Fact

36. Against that background, I can turn to my findings of fact on the balance of probabilities, with the burden of proof on the party asserting a claim, including to a beneficial interest in a property in which they do not share legal title. I hope to do so relatively briefly and in five chronological sections: (i) 1964 to 1987 being Father's lifetime in the UK; (ii) 1987 to 2005 when Mother died; (iii) 2005 to 2010 after Mother's death; (iv) 2010 to 2019 when Roshan and Veena separated on the day of Prinaka's wedding in 2011 and the aftermath of that; and finally (v) 2019 onwards when Roshan and Veena reconciled but this dispute between him and his sisters then broke out. As I have explained by reference to *Shagang*, I will not make findings of fact on every contested point, but only on those relevant to the issues which I must resolve. I must leave the many other disputes festering in this family to the family – I doubt they are capable of legal resolution anyway.

1964-1987

37. As I started this judgment by saying, until they descended into this bitter and futile dispute, the Hansrani family was a demonstration of the successful immigration from people from all over the Commonwealth after the Second World War, which has made the UK the country it is today. In very brief summary, Father and Mother previously lived in Rurka Kalan, a rural village in Punjab, India and they had four children. Raj was born just after the war finished in 1945, Roshan in 1948 after the traumas of Partition, and Pawan and Ravi soon followed. In 1953, Father came to the UK for the first time, to work and remit money home as so many people did then and still do, but he obviously missed his family and returned to India in 1960.

38. However, the Hansrani family's story here really started in 1964, when Father came back across to the UK, this time for good. A few months later, Roshan – then aged 16 – followed with his uncle. They settled in Leicester to prepare the way for Mother and the three girls to come to the UK in 1966. Mr Dhian Singh remembered those two years, working alongside Roshan at Premier Screw at Woodgate, Leicester and knew that outside his full-time job, Roshan was also studying O-Levels in the evenings. Roshan had learned English in India and was ambitious to better himself. Roshan's income in those days was only £14-£15 a week. It is likely that Father's income was better, but not dramatically so: even a decade later in 1974 – famously a time of high inflation after the 1973 Oil crisis – Father's wages were £41-£43 a week according to a sponsorship declaration disclosed by the Claimants during the trial. Whilst those sums appear tiny now – that is simply the very effect of inflation over those 50 intervening years.

39. The start of the Hansrani property patrimony was the purchase of 65, Worthington Street in Father's name in 1965. The Claimants were then still teenagers in India and their knowledge of this is entirely second-hand. I prefer Roshan's clear first-hand account – full of detail, as one would expect given it was the start of his climb of the property ladder and a milestone in anyone's life. For the first year or so he was in the UK, Roshan was living in very cramped conditions sharing a room with Father in Roshan's uncle's home. Whilst Father - well-used to these conditions from his stay in the 1950s - did not seem very interested in buying a house, Roshan was heavily influenced by his uncle's encouragement to buy property and I accept it was Roshan's initiative to go to the estate agents and buy 65 Worthington Street.

40. As it is clear – not least from Mr Dhian Singh's evidence - that Roshan was earning in 1964-66 when he turned 18, I find that it is more likely than not that he did open a bank account with his father. However, (as Roshan admitted in evidence) it may well not have been the one with Leicester Building Society he pleaded ending -519. As Mr Mitchell spotted, it looks like that account (which is relevant in the 1980s) was Father's account to which Roshan's name was only added later and which was not used for a period after Father's death in 1987 until 1990 and finally closed in 1991. I do not accept the 1960s joint account was all Roshan's money. Indeed, in the less than a year he had worked in the UK on £15 a week, it is unlikely Roshan could have saved up enough for a deposit on his own. However, this income was enough to service the mortgage. Some pre-decimalisation slips from 1970 show the mortgage repayment on 65, Worthington Street in Father's name was 8 old pounds and 16 shillings, comfortably within Roshan's then-pay.

41. Therefore, for all the Claimants' protestations, it is entirely plausible that Roshan could have afforded to service the mortgage in Father's name in the late 1960s when working in a variety of factory jobs and as a bus conductor and studying part-time. However, that is not the same as finding he was the sole contributor in that period, still less in 1971-1975 when studying for his degree in Mechanical Engineering at Surrey University, although one of those years was a paid internship and he took other part-time jobs. By the 1970s, his sisters were all working and contributing to 'the family pot'. However, I accept Roshan's evidence that related to household expenses, not the mortgage, which he often paid. In 1971, Raj married and bought 19, Kings Newton Street, Leicester. At the same time, Pawan went off to study Pharmacology at University in Bath. However, Ravi still lived at home but started working for the NHS in 1969 and paid all her money into the 'family pot', at least until she too married in 1976 and they bought their own home together at 4 Bradbourne Road in 1977, using £2,000 she had saved and a £2,000 loan from Father (despite Roshan's objections). However, Ravi cannot say that the money she paid 'into the pot' from 1969 to 1976 was used on the mortgage for 65 Worthington Road as she left that to Father and Roshan. Indeed, when it was sold in 1980 (with a solicitor's letter tellingly addressed to Roshan not Father who had just retired), the sale price was £6,500. I accept Roshan kept that money.

42. However, those proceeds of sale of 65 Worthington Street which Roshan took in 1980 had nothing to do with the purchases of 159 Nansen Road in 1974, or indeed 163 Nansen Road in 1978, nor 76, Romway Road in 1979, all of which predated the sale of 65, Worthington Street. Roshan had rented that out for £500 a year since the family moved to 159, Nansen Street in January 1975 (not 1974 as said in statements). By then Raj was living with her husband in Leicester, Pawan was still in Bath, Roshan coming to the end of his studies in Surrey, but Ravi was at home.

43. Contemporary purchase documents from solicitors from January 1975 show that the purchase price for 159 Nansen Road in Father's name was £8,500, comprised of a £850 deposit, a further payment of £5,650 and a Leicester Building Society mortgage of £2,000 repayable at c.£30 a week even in 1979 – again in Father's name. It is the Claimants' case that Father bought it alone without Roshan's help. I do not accept that and find on the balance of probabilities that Roshan was the sole financial contributor to the purchase and the help Father gave him was lending his name, as Roshan could not get a mortgage when still a student in 1975.

44. According to the document disclosed by the Claimants during the trial I mentioned earlier, only a few months before the purchase, in August 1974, Father declared that his weekly income was £41-43 and his savings were £4,200. That is not enough for him to have paid unaided the total of £6,500 in early 1975 which was not by mortgage. Receipts show a payment of £850 in January 1975 and £5,650 less than a month later in February 1975. That supports Roshan's evidence that the payment came from him from a combination of three sources. Firstly, his grant money – that he had not spent as he had worked part-time jobs and lived frugally. Second, pay from his one-year internship at the Atomic Energy Authority on his Engineering Degree which would have finished by then. Third, money he had saved in the joint account with Father from his work back in Leicester up to 1971 not used to service the very modest mortgage on 65, Worthington Street.

45. However, I accept it was Roshan's idea in 1975– inspired by his uncle – not to sell 65, Worthington Street but to rent it out which covered that mortgage from then on and left a surplus. By then, with inflation and higher interest rates, the mortgage on it probably had risen from £8 a month, but I find would still have been well-below the £500 rent a year Roshan earned and declared in his tax returns. This would have meant that Roshan had more than enough to service the mortgage on 159 Nansen Road from 1975 onwards, which was only £30 a month by 1979. By 1975, Roshan was in teacher-training and by 1976 he was working full-time as a schoolteacher back in Leicester living with his parents at 159, Nansen Road, but also supplementing that income with other jobs like teaching in a prison. Whilst that would not have amounted even in total to £20,000-£25,000 (he muddled-up his teacher's salary in 1997 for that in 1977), it would have been more than enough to cover the mortgage for 159 Nansen Road entirely by himself. This in turn supports Roshan's evidence, which I accept on the balance of probabilities, that 159 Nansen Road and the mortgage was put in Father's name because Roshan could not get a mortgage and out of respect for his father and it was agreed between Roshan and Father that 159 Nansen Road actually belonged exclusively to Roshan. (This is also consistent with later events and expenditure I shall describe later).

46. After all, by 1975, Raj was married and had her own home; Ravi would soon be married and have her own home as well and Pawan was coming to the end of her time back at home in Leicester after her degree in Bath and was just about to start her Masters' Degree in Pharmacology in Manchester. Roshan did not intend to continue studying for long, but to work as a teacher on more money than his Father earned working in the factory and he had always been keen to own property. It made sense for Roshan to buy 159 Nansen Road for his parents but put it in Father's name. It may well be they all anticipated Roshan would move out later.

47. However, I do not accept that Roshan bought 163, Nansen Road in 1978. By then, after Ravi had bought 4 Bradbourne Road with her husband, the only one of the siblings who did not own property was Pawan. At this stage, she was studying for her PhD in Pharmacology in Nottingham, but did not intend to live there full-time. Whilst Pawan was still studying, just like her brother in 1975, she was also working part-time as a locum Pharmacist; and again just like her brother, had accumulated enough money for a deposit and to service a mortgage. But unlike her brother, whilst she was still studying, her income was enough for her to get a mortgage in her own right and 163 Nansen Road was bought in her name.

48. I find on the balance of probabilities that for 163 Nansen Road, both the purchase money and the mortgage repayments were paid by Pawan, who clearly remembered handing over that money to her Father. Whilst of course she does not know with certainty that he used the money for that purpose, I find on the balance of probabilities that he did. I accept Roshan found the property and handled the purchase but I find he did not pay towards it. After all, he was already servicing the mortgage on 65 Worthington Street by renting it out and was paying off all the mortgage on 159 Nansen Road too. I accept that he was still working towards an MSc so could still not get a mortgage himself. However, 163, Nansen Road was in Pawan's name not due to that, but because she wanted to get onto the property ladder herself. Roshan's sense of grievance towards all his sisters – and in fairness his management of the rental of 163 Nansen Road for years on Pawan' behalf - without personal gain, has distorted his memory. I find that in relation to 163 Nansen Road, he was indeed simply Pawan's informal agent, collecting her rent. Rashmi remembers discussions about rent for 163 Nansen Road and there are envelopes relating to it with what appear to be rent figures and Pawan's name on. Indeed, Pawan admits Roshan paid her the due rent until November 2019.

49. Another reason I prefer Pawan's evidence on the purchase of 163 Nansen Road in 1978 to Roshan's evidence is that the following year, I will find he bought 76 Romway Road as well, before he had sold 65 Worthington Street in 1980 and whilst still paying for his mortgage on 159 Nansen Road, all on a teacher's salary. Moreover, by 1978, Roshan also had a wife to support. Veena had also qualified as a teacher back home in India, but after she arrived in the UK in 1978 as part of an arranged marriage to Roshan, she did not take up teaching. Indeed, I sense that Veena was quite frustrated. She did not work but was expected by Roshan's family to stay and look after their home, as she was living with Father and Mother who were both then working. This was entrenched when Veena and Roshan's first child was born in 1979. Moreover, Veena was excluded from the family properties as well. Whilst only Veena, Raj, Ravi (and to an extent Pawan although she was not local and was not so involved) will understand why, I accept that Veena did not feel welcomed by her new sisters-in-law. I also accept that Roshan was close to his sisters - especially Raj - and their antipathy towards Veena undermined her marriage to Roshan. Whilst Raj and Ravi simply deny any issue with Veena; and Veena's statement is emotional and ill-focussed, I accept there was an issue.

50. However, the 1970s ended positively for Roshan. He was newly-married and a new father, settled into a permanent teaching job and in 1979, I accept that he felt financially comfortable enough to buy another rental property – 76 Romway Road. A letter from November 1978 confirming the subject to contract purchase referred to Roshan as buyer, but he could not get a mortgage because he was still technically a Masters' student. Likewise, the mortgages on 65 Worthington Road and 159 Nansen Road were still in Father's name, so I accept Mother agreed to have the mortgage and the property in her name for Roshan. However, the final price was £16,500 and I accept the mortgage was for £8,000 with the monthly repayments starting in 1979 at £67.70. Mother was working in a factory and is unlikely to have had £8,500 in savings to pay the balance of the price – over twice the savings Father had in 1974, who had worked for much longer. By contrast, I find Roshan had accumulated that in savings again in his over five years – most of those working as a supply teacher - since 1974 when he bought 159 Nansen Road.

51. Therefore, I find on the balance of probabilities that it was Roshan who bought and paid for 76 Romway Road, but out of respect for Mother, he did see it as in part her property as well. Indeed, doubtless he was proud to have found his Mother a property to have in her name as well. However, I find he serviced the mortgage in its entirety, through renting it out, it appears to students from Leicester University. I also accept Roshan went on to make overpayments so the mortgage on 76 Romway Road – albeit still in Mother's name, was paid off in full in 1986.

52. Moreover, by 1981, Roshan was in a permanent teaching role and was finally able to get a mortgage in his own name, for another local house: 146 Nansen Road. It may have been anticipated by his sisters that Roshan would move there and leave Mother and Father in 159 Nansen Road. However, in Roshan intended to stay in his family home. After all, in 1977, he had obtained approval to erect a garage and carport and in 1980 planning permission to erect an extension, which I accept he paid for himself. I also accept that in September 1980, Roshan paid off the c.£1280 outstanding on the mortgage for 159, Nansen Road. It is unrealistic that Father did that having retired. Notably, that was a reflection of Roshan's financial stability, as that was paid off before Roshan received the £6,500 sale proceeds for 65, Worthington Street in October 1980. Whilst it had been bought in Father's name and I have found he also contributed to the purchase back in 1965, it had been Roshan who had enabled the family to move to 159, Nansen Road and to rent out 65, Worthington Street and I accept Father, who had just retired and claiming his pension, was happy to let Roshan enjoy the fruits of his own labours with the sale proceeds. True to form, Roshan soon afterwards in Summer 1981 found another neighbouring property to buy – 146 Nansen Road, which he finally bought in his own name with a mortgage (which he subsequently paid off in full in 1991).

53. At the same time – 1981 – Pawan had finished her PhD and found a job in the South-East with Glaxo and she bought 812 Greenford Road in Middlesex for £32,850 with a deposit of £3,285 with the balance on a mortgage with Abbey National (which Pawan redeemed in 2001). However, Roshan was still managing the rental income for Pawan on 163 Nansen Road with her responsible for the mortgage, which was gradually reducing from December 1979 (when the balance was £3910.91) to December 1981 (when it was £3708.57).

54. However, 1981 was a more difficult year for Raj, who separated from her husband with their two young children – Ravinder (born in 1973) and Rashmi (the Fourth Claimant, born in 1978). Back in the late 1960s and early 1970s, Raj was earning £8-£9 a week – less than her brother Roshan's first job. Obviously, by the early 1980s, not least with inflation, Raj would have been on more, but she had no spare money, as Raj admitted herself. Rashmi described that Raj's life as a single mother was hard and she was very careful with money – they lived frugally, with even a restaurant meal a huge treat. Clearly, the family would have been concerned about Raj and her children and after she had been divorced in 1984, Mother and Father wanted her and the children closer to them. Roshan had not long bought the neighbouring property at 157 Nansen Road for £18,500 and in 1985, he sold it to Raj for £18,500 which she had raised from selling her own property at 19 Kings Newton Street. Therefore, not only was Roshan and Veena living with Mother and Father with their son, Raj and her two children were now living next door. Given Raj's antipathy towards her, that was unlikely to have improved things for Veena.

55. However, there was still more upheaval in 1984, as Pawan found a dream job in the USA and emigrated. Whilst she describes Roshan as disapproving of this as he wanted her to work as a pharmacist in Leicester, Roshan was open and fair about this in evidence – despite the dispute - that it was Pawan's career and her choice. However, Roshan did insist on Pawan transferring 163 Nansen Road to Father in 1985. Pawan met her husband in the USA and married there in 1986 and has lived there ever since. This is why Pawan is the least involved – and certainly the most objective – of the three sisters in the family dealings back in Leicester. Roshan also rented out 812 Greenford Road (at some stage used by his son) and accounted to Pawan for the proceeds. There are envelopes referring to rent for Pawan on both.

56. Meanwhile, also in 1984, Roshan had found an additional source of income on top of his continuing teaching career. He started the building firm Crown Construction. Mr Kuldip Singh worked for Roshan in this role at 159 Nansen Road (with a further rear extension in 1985) and on 76 Romway Road. Mr Singh also recalls working on 10 Sawley Street, though that was bought in 1986, so he may be mistaken that he stopped working in construction in 1985.

57. 10 Sawley Street was bought for £12,250 in July 1986, again in Father's name. Roshan again found it and arranged the purchase – without a mortgage – and claims that he paid for it in full. I accept the deposit of £1,225 and a further £3,000 – essentially a third share – was paid in September 1986: exactly the same time as a receipt for payment on the purchase. This was from a joint account for Roshan and Father: the account ending -519 mistakenly pleaded as the 1960s one. However, since Father had retired in 1980 but there were still additions to it in 1986, I accept by then it contained mixed funds, indeed probably more of Roshan's money than Father's. Yet it remained with Father's name first – contrary to Raj's suggested 'family tradition'. However, there is no documentary evidence of any payment of the balance of £11,175 from Roshan's other accounts. Indeed, at the same time Roshan spent £5,178.74 paying off the mortgage on 76, Romway Road. By contrast, here Ravi does give a clear and vivid account of an agreement between herself, Raj and Father where they all agreed to put into 10 Sawley Street a 1/3 share of £4,000 each – Ravi from her maternity pay, although she was less clear about Raj's £4,000. Mother's later accounts show she split the rent between Raj and Ravi – Roshan is not mentioned. However, Roshan did undertake works through Crown Construction to 10, Sawley Street (as Mr Singh recalled). But despite this and use of his money for the deposit, Roshan did not pay himself rent.

58. 10, Sawley Street was Father's last act in the story as he passed away in 1987. This obviously hit the family hard, particularly Mother. She was not yet bed-bound – and indeed travelled to see Pawan in the USA in 1988. I also accept that Mother gathered her children at 159 Nansen Road and had a discussion that Roshan would continue to manage the properties and the rent at 10 Sawley Street would be split three ways between herself, Raj and Ravi; and that Pawan would receive the rent from 163 Nansen Road as the Claimants plead in their Particulars of Claim. However, notably, the Claimants plead no such agreement at that point about 76 Romway Road, or 159 Nansen Road even though the latter (valued at £55,000 in November 1990 in the only Probate document) was also part of Father's estate along with 163, Nansen Road (valued at £45,000) and 10, Sawley Street (valued at £35,000), which therefore passed on his intestacy to Mother, not to Roshan.

1987-2005

59. After Father's death, Roshan had increased financial responsibility for the family, as well as he and Veena becoming Mother's carers as her health declined and she retired. In 1988, she signed a power of attorney for Roshan to deal with 159 Nansen Road on her behalf. Whilst I have found he had paid in full for it, he did not take the opportunity after Father's death to transfer it into his own name. I find he transferred it into Mother's name: both for her own sake as it was her home with his own family; but also that he did not want Veena to have any claim on it. Roshan said in his statement para.57 (which I accept on balance of probabilities):

> "159 Nansen Road was my home and this was transferred into my mother's name once the Letters of Administration had been granted so that she felt as though she had something. I continued to live with my mother at this address and my wife, family and I provided her care. When the transfer happened, my mother told me that this is 'your house' and 'this house will pass to you' she said the same several times again. My mother fully understood the basis that she held my property, for the same basis upon which my father held the title of the property for me. They both knew it was my property."

Yet, as I noted above, Roshan added at para.59 (speaking of long before 2011):

> "Despite legal title or beneficial ownership, I still managed the properties. Again, I did not put them in my name as there was mistrust with wife. I relied on my sisters' judgement as I thought they had my best interests at heart."

This fortifies my finding above that in 2011, although he did have depression, it was Roshan himself who did not want Veena to have any claim against 159, Nansen Road, just as he admits he did not want her to have any claim back in 1987/1988, long before he claims to have had depression or to be 'vulnerable'.

60. However, Roshan also succeeded in bringing Mother out of her shell of grief after Father's death by having her do book-keeping for rent. Prianka, who shared a room with her grandmother for a while when younger, remembers Mother counting the rent money and tying it up with elastic bands (which is why I will find that Pawan discovered £18,000 of cash in Mother's room after she died – it was the rent money, not Mother's own). Mother also filled out the accounts of rent for the properties in diaries, which support Raj and Ravi's claim to shares of 10, Sawley Street. He also brought Mother into his property portfolio. Not only was 76 Romway Road in her name, Roshan also found another property which he decided to put in her name, again partly to involve her and partly to exclude Veena's potential claim: 11 Egginton Street. I find again Mother agreed that it was truly his property. The circumstances of the purchase are again patchily-evidenced, but it is not disputed that it was bought in Mother's name without a mortgage. The completion statement records the purchase price was £25,000. The three cheques comprising £16,200 came from Roshan's Crown Construction accounts and I accept that Roshan paid the balance in cash and Mother made no financial contribution. Indeed, Mr Durgai gave essentially unchallenged evidence that he sold 11 Egginton Street to Roshan who told him that he would buy it in Mother's name. Mr Durgai also confirmed that Roshan later did building work on it and Mr Hussein also re-wired the house. Again, 11 Egginton Street was rented out, but no rent was ever distributed to Mother, Raj, Ravi or Pawan for it, which they accepted.

61. However, as Mother's health continued to deteriorate, in 1989 Roshan decided it would be easier to put 76 Romway Road in joint names. Whilst he had paid the deposit and serviced and paid off the mortgage, again he preferred not to be on the title himself because of the situation with Veena, so Ravi agreed to be added. She recalls that she 'purchased' a share, but we do not have the copy of the transfer in 1989 or any evidence of payment and Roshan contends that she paid nothing. Yet unlike most other internal family transfers, Ravi did later 'sell' her half-share in 76 Romway Road to Raj in 1998 for £25,000 (which was more than the whole purchase price of 45 Thurlby Road, albeit that was at auction). That is consistent with Ravi's 'share' being a beneficial interest, not just legal title. I find that as with Raj on 157, Nansen Road, Roshan would have allowed his sister to pay what she could afford, so I accept Ravi 'bought' a half-share in 76 Romway Road in 1989, even the amount has been forgotten. However – perhaps because she paid an undervalue - I find Ravi was not paid rent – she does not mention receiving it and the evidence of Mother's rent accounts is that the rent from 76 Romway Road was not split. I find that Ravi never had any expectation of rent from that property and nor did Raj when she bought Ravi's half-share in 1998, as I describe below.

62. By contrast, in 1991, two of the other Disputed Ownership Properties were transferred for nil value, which I find were both part of the working-out of Father's estate and which reflected Raj's greater involvement in the family properties as Ravinder and Rashmi grew up. 163 Nansen Road was transferred from Pawan (to whom it was presumably transferred after Father's death as she had transferred it to him beforehand) to herself and Raj as legal and equitable joint tenants. After all, Pawan was far away in the USA. In any event, she makes no complaint of unpaid rent until 2019. However, according to Mother's accounts, the rent from 163 Nansen Road was not split and she noted £600 received in October 2004 and a total of £600 in March 2005, at a time when the tenancy agreement records the rent as £600 (although it was clearly not always paid). Likewise, later envelopes link '163' 'Pawan' and '670', suggesting her rent had increased. Furthermore, 10, Sawley Street was transferred around the same time from Mother to Raj and Ravi as legal and beneficial joint tenants. Here, Mother's later accounts show the rent from there was split between Raj and Ravi with their rent shares being £100 pcm around the late 1990s (although some of the figures look more like £200, that may be double-instalments). Yet Roshan is not mentioned. Whilst Roshan is not a party to either deed, he accepts organising for them to be done. Yet neither leaves room for any beneficial share in either property for him. This shows that it was not just Roshan who had already benefitted from Father's estate, Pawan had by receiving back 163, Nansen Road and Raj and Ravi between them 10, Sawley Street. So, it is entirely consistent with Roshan later retaining an interest in 159, Nansen Road.

63. Also reflecting Raj's increased involvement, in 1992 she and Roshan bought 25 Lyme Road together, each paying 50% of the purchase price. There is no dispute about this, or that 50% rent was duly paid to Raj by Roshan until November 2019. I do not accept there was for this or any other property any agreement of a 'management fee' for Roshan. He managed the properties informally for his family, not as their contractual agent. But he was unquestionably in charge and still keen on sharing out legal title (except to his wife) – including for 25 Lyme Road as I said: putting it in Ravinder's joint name without telling him and after he was challenged by a Council Tax Officer, later putting it in Rashmi's joint name.

64. The purchase of 45, Thurlby Road in 1996 must be seen against this background of Raj's increasing involvement with Roshan's properties. Again, Roshan found the property advertised at an auction, which he could not attend but he sent along Veena and his agents. This may explain why the original sale contract is in the joint names of Mother and Veena on 22nd May 1996. However, within a couple of weeks, Roshan wrote to his solicitor on 2nd June 1996 saying he wanted it in the joint names of Mother and himself. Clearly, the nagging doubts about his marriage overcame Veena's enthusiasm finally to have property in her name. At the end of May 1996, Roshan paid £21,000 – first a cash deposit of £2,100 and then three cheques from three Alliance and Leicester accounts. One was in Mother's name for £8,500, as Mr Mitchell showed, the account went through her Probate after she died. The second was in Roshan's sole name for £3,000. The third account (-369) was in the joint names of him and Raj (£7,400). I will have to consider the legal implications of that later, but I do not accept that £7,400 was all Raj's money on her asserted family convention that it came from a joint account on which she was first-named. That was not Roshan's practice. Indeed, in joint account ending -159 with Father, I have found that by the 1980s the money in that was mainly Roshan's, yet he was second-named on the account. I also do not accept Raj paid £3,100 in cash, as the deposit was £2,100 in cash at the auction at which she was not present.

65. More generally, I also do not accept Raj's evidence that it was agreed between her and Roshan that she would have a 50% beneficial interest. Raj's belief appears to derive from the fact that she did later receive some rent on 45 Thurlby Road. There are notes which Roshan accepts are in his handwriting mentioning figures for 45 Thurlby Road alongside other properties on which he accepted he paid Raj rent. Someone has written 'Premji' - the family name for Raj. Moreover, that £190 figure is similar to an envelope with '45 Th 200', 'Saw 150' (a reference to 10, Sawley Street) and 'Quenby 153' (a property bought in 2001, for which Raj was paid 1/3 of the rent). Finally, there is a 'Post-It' note referring to Sawley Street (180), Lyme Road (270) and Thurlby (270). Whilst one note in isolation may have been consistent with Roshan's evidence that these were just his own notes, these recurring addresses suggest these were rent distributions. However, that does not prove that Raj was paid 50% of the rent – these scraps of notes are undated and Raj's case of an agreement is based essentially on evidence that I have rejected. Whilst I prefer evidence of 'the actual position' to Roshan's recollection, here all that it proves is that Raj received *some* of the rent on 45 Thurlby Road, not that she received 50% of it. The burden of proving a beneficial interest here is on her. That rent may be a smaller proportion, consistent with Raj contributing from her joint account with Roshan £7,400 of £21,000, being slightly more than a third. However, more fundamentally, the transfer itself in 1996 from the vendor to Mother and Roshan as 'Transferees' included this declaration (in standard terms but which was specifically chosen rather than a 'tenancy-in-common' clause):

> "[T]he Transferee[s] hereby declare as follows: (a) they are joint tenants in equity (b) the survivor of them can give a valid receipt for capital money arising on a disposition of the land."

I must decide later whether this declaration has the effect in Law and Equity to trump the actual distribution of rent to Raj by Roshan. However, it is inconsistent with Roshan agreeing a 50% beneficial interest with Raj, otherwise he would not have instructed the solicitors to include that clause in the original transfer.

66. In any event, in 1998 Ravi transferred to Raj her 50% share in 76 Romway Road for payment of £25,000 mentioned earlier. Roshan says this deed came about because in 1998 Ravi was going through a divorce. I have already mentioned that around the same time, Roshan entered a formal legal mortgage with Ravi for a loan of just over £20,000 to her secured on her home at 104, Downing Drive. As for 76 Romway Road, Roshan says that to protect the property (even though he says Ravi had no beneficial interest) he changed the second name on the title along with Mother from Ravi to Raj, but no money changed hands between them. However, this is a formal deed which – importantly unlike the 2011 transfers - explicitly transfers Ravi's *beneficial interest* to Raj (albeit only as tenants-in-common, not beneficial joint tenants, which is also important). Roshan accepted in evidence £25,000 would have amounted to 50% of the value of 76 Romway Road at the time. The family already had a track record of transferring for nil consideration (or 'love and affection' in the quaint phrase), as with 163 Nansen Road and 10 Sawley Street in 1991. Therefore, I do not accept Roshan's unclear explanation that this transfer meant the same when the face of the deed said otherwise: Raj was liable to pay Ravi £25,000, whether or not she in fact did so. Ultimately, whilst Roshan was not a party to this deed and it does not bind him, since he admits organising it, it is evidentially inconsistent with his case that he owned all the beneficial interest. However, it is not evidentially inconsistent with him owning the other 50% of the beneficial interest in 76 Romway Road, since the deed declared that after the transfer Raj and Mother held their shares as tenants-in-common not joint tenants (unlike 163 Nansen Road and 10 Sawley Street). Roshan's case is that Mother held on trust for him and I will find she held 50% of the beneficial interest on trust for him for reasons I explain in my conclusions. Standing back, these two 1998 transactions with Ravi were precedents for the siblings transferring family property among them to protect it on divorce – as I will find Roshan did in 2011 with 159 Nansen Road and 11 Egginton Street.

67. I find similar motives – yet again to protect Roshan's property from any claim on divorce by Veena - underlay yet another joint purchase in 1999 by Roshan and Raj in this period of 164, Nansen Road (as opposed to 146, Nansen Road he bought in his own name in 1981 as discussed). The purchase price was £65,000 and it was bought in cash without a mortgage. Raj contributed 33% of the price and Roshan 66%. In May 1997, Roshan filled out a similar immigration sponsorship declaration as his Father had made for another relative 20 years earlier. Roshan had declared that he owned 146, Nansen Road and 44, Bonsall Street, but also had accommodation for the relative at 159 Nansen Road, was earning £22,000 a year as a teacher (which I find is where he mistakenly got the estimate of his salary in the late 1970s from) and had £41,000 in an Alliance and Leicester account. That was plainly not his only account but alone would have been enough for Roshan's share in 164 Nansen Road in 1999. Yet again Roshan did not want it in his name – it went into Raj's sole name, but she does not dispute she held his 66% beneficial interest on trust for him and that he paid her 1/3 of the rent until 2019.

68. However, in 2001, Roshan – now aged 53 - was able to take a step down from teaching full-time and he retired from teaching in 2004. He now had a substantial roster of rental properties and a successful construction business. Indeed, whilst still reluctant to buy any properties in Veena's name, he became more relaxed about developing the family's property portfolio and including the next generation

68.1 Comforted by Mother's reassurance – which itself echoed Father's earlier reassurance - that 159, Nansen Road belonged to him, Roshan began work on yet another extension to 159, Nansen Road to the kitchen, dining room and first-floor bedroom extension. He obtained planning permission in 2003 and completed it in 2008, doubtless again adding to the property's value.

68.2 In June 2001, Roshan bought 8 Quenby Street in the names of Rashmi and Navin (who had it removed in 2016 when he wanted to buy his own property) for £33,500, with Roshan, Raj and Ravi each contributing 1/3 of the price. As discussed, 8 Quenby Street is now in the joint names of the three siblings and they each received 1/3 of the rent from Roshan until August 2020.

68.3 In 2002, Roshan bought 15 Thurlby Road in the names of Raj and Niten for £57,000 with himself contributing 66% and Ravi contributing 33%. The sale of that in 2016 is relevant to the loan claims discussed below.

68.4 Slightly earlier in 2002, Roshan had bought 130, Nansen Road himself outright for £90,000, which is some indication of the rapid increase in property prices – including the family's collection in Nansen Road itself, which was fuelling the family's rapid expansion of its overall roster then.

68.5 However, Roshan was also buying elsewhere in Leicester, including back in 2001, 21 Trafford Road for £43,000 (I understand from the sale of 44, Bonsall Street although that is not well-evidenced as neither are contested), which Roshan put in the name of his son Sanjeev.

69. However, in 2004, Sanjeev was in a difficult time of his life. As I have said, he is accused by Raj and her children (and in hearsay by Ravi and Pawan, but that adds little) of stealing jewellery from Raj's home in 2003-2004. Yet Ravinder's (hearsay) evidence of Sanjeev's confession is vague – since Ravinder's account is of Sanjeev admitting to shoplifting which led to his dismissal from the Police, not to theft of Raj's jewellery. That was was her and her children's assumption, not Sanjeev's admission. Nor did Roshan admit it on Sanjeev's behalf – indeed Ravinder criticised him for that. As with the unreliable confession in *Shagang*, it is unnecessary to make a definitive finding about Sanjeev's guilt – and I am reluctant to adjudicate a serious allegation against a non-party who has not been called to give evidence. Yet equally I decline to draw no adverse inference against Roshan from the failure to call his son as he called Mr Kaushal who confirms (and I accept) that Raj's allegation was well-known in the local community at the time but was later proved to be unfounded when the jewellery was found in 2005. If necessary to make a finding, I would find on the balance of probabilities that Sanjeev did not steal the jewellery. However, if I am wrong about that, it makes no difference because whilst Mr Kaushal says Roshan offered to pay at the time, that was before the jewellery was found. Therefore, Roshan is hardly likely to have paid Raj £40,000 twelve years later in 2016 because of something he did not believe had happened, as Raj seeks to claim. I will prefer Roshan's explanation that it was a loan. However, its relevance at the time is that the shadow of family suspicion fell on Sanjeev and Ravinder had to be dissuaded by his grandmother from calling the Police. One of Mother's final acts in the family saga was to try her best to keep the family together and to prevent it from splintering. Sadly, in March 2005, Mother passed away and the last restraint on family conflict fell away. Civil war did not break out straightaway, but its seeds were already sown.

2005-2010

70. At the time of Mother's death, sadly Raj, Ravi and Pawan were all abroad – Raj and Ravi in India and Pawan at home in the USA, although she flew on the day Mother died – 15th March 2005 – back to Leicester to support Roshan. There is a slight difference between Pawan's recollection of seeing her Mother the last time and that of a relative Kanta Hansrani and whether she told Pawan there was £18,000 in Mother's bedroom. This is clearly an extremely emotive subject which may affect recollection, but there is a simple explanation which I reach on the balance of probabilities. I accept that Kanta told Pawan that Mother *handled* money in her room, not that she *kept her own money there*. I also accept Pawan found £18,000, but she put 2 and 2 together to make 5. As I said, Prinaka recalled her grandmother counting rent money in her bedroom when keeping her handwritten accounts. I find that the £18,000 Pawan found was the last tranche of that money – which belonged not to Mother, but to Roshan and his sisters. Indeed, since they all accept that he continued paying them rent after Mother's death (except on 159, Nansen Road; 11 Eggington Street and 76 Romway Road when I find he did not pay them rent before Mother's death), it is more likely than not that much of that £18,000 was passed on to his sisters by Roshan as rent.

71. However, I accept Pawan's evidence that she removed the jewellery Mother had been wearing when she died, which she also gave to Roshan. He accepted in evidence he still has that jewellery at a shrine to Mother at his home, but agreed his sisters could share it with him. But there is also what the Claimants contend was Mother and Father's jewellery for which Pawan, Raj and Ravi claim an account, relying on a list they say Roshan prepared in 2014, which they have had valued at c.£230,000. As I said, Raj contends that Roshan drew up a list of Mother and Father's jewellery in his safety deposit box he shared with her and gave the bag of it and the list to Ravi in 2014, who in turn says he angrily demanded it back in 2018. However, there are a number of difficulties with this claim. Kanta Hansrani – who was close to Mother – explained the only jewellery Mother still owned at her death was that which she was wearing. She had already distributed other gold and jewellery, if not as a dowry then to her family. However, Veena also remembered that in 1993 when travelling to India, she gave Mother for safekeeping some of her own jewellery which was returned to her. This appears to have fed confusion as to whose jewellery was whose. I also accept that Roshan had bought a considerable amount of gold and jewellery himself and kept it in his safe deposit box with Raj. However, I accept from his various receipts and his evidence that it only contained his jewellery. Whilst there were difficulties with Roshan's evidence, I simply do not accept that he would have in some way 'stolen' Mother and Father's jewellery. That is an incredibly serious accusation – yet unfortunately the Claimants have a track record of doing that – as with Sanjeev in 2004; and Raj's accusation towards HSBC employees which is unproven. Roshan does not accept that he wrote the list the Claimants have produced, although it has what may (or may not) be his, Father and Mother's initials on it. But there is no evidence from the Claimants that they know Mother and Father had the jewellery on that list. There are also substantial difficulties with Ravi's evidence, not least her evident dislike of her brother. However, it goes deeper, since whilst she says Roshan gave her a bag and the list of jewellery in 2014 and demanded it back angrily in 2018, she does not actually say that he took it and I find he never did.

72. In short, there is so much confusion and emotion swirling around this subject that it is best if my findings of fact are as short and simple as possible. I do not accept on the balance of probabilities that Roshan has retained Father or Mother's jewellery, save that she was wearing when she died which he has agreed to share. Given Kanta's evidence, I find Mother did not still own any other jewellery. Moreover, it is also clear from various receipts that Roshan had bought considerable quantities of gold and jewellery himself. I do not accept that he prepared the list Ravi produces, nor her tendentious evidence about the bag of jewellery in 2014 or 2018 and I repeat that on the latter in her statement, she does not allege that Roshan actually took it. I find that Ravi is so full of dislike for her brother now that she is not able to give objective evidence about this. After all, she was Mother's joint administrator with Roshan in 2011 and surely if Mother and Father's gold and jewellery had been missing since 2005, she would have said so or even investigated it then with Raj and Pawan's help, but did not. I do not know what the list represents or who drew it up, but I find that it was not Roshan and does not relate to Mother and Father's jewellery. I find on the balance of probabilities that Roshan has not wrongfully retained or disposed of his parents' gold and jewellery – as I say, except the jewellery Mother was wearing when she died Pawan removed, but he has agreed to share that with his sisters.

73. It was not so rancorous between the siblings in the years immediately following Mother's death. On the contrary, it seemed to bring them together for a time. In August 2005, Roshan found 21 Bannerman Road for £109,000 and unusually expressly they put it in equal shares between Roshan, Pawan, Ravi and Rashmi legally and as beneficial joint tenants, though Roshan contributed most to the price. This was formally completed in 2009 as there was a problem with the first transfer. (However, that was not the reason as Pawan recalls for the removal of Roshan's name in 2011, as I will describe). Roshan continued distributing rent equally on that property until 2019. Shortly after that purchase, in September 2005, Roshan also put 25 Lyme Road in Rashmi's name as well as his own, again jointly in title and as beneficial joint tenants. Roshan's sharing of wealth with the next generation continued. In 2006, 21 Trafford Road, which had been in Sanjeev's sole name, perhaps understandably given his troubles, was transferred into the names of Roshan and his sons Sanjeev, Shub and Vivak. In 2007, Roshan bought 39, New Way Road for £170,000 with the benefit of a mortgage and put it in the names of himself and his sons Sanjeev and Shub. In short, I find that things were relatively harmonious between Roshan and his siblings, nephews, niece and his own children, otherwise he would not have undertaken all of those transactions.

74, Having found Raj and Ravi unreliable in various respects (and Pawan rather removed from things in the USA) I need not go through the various grievances and complaints they express about this period, because I do not accept them. The 'actual situation' speaks for itself: Roshan was sharing the wealth – including with their own children, especially Rashmi (which is why she is Fourth Claimant, although wisely she has remained on the edges of the fray). However, it is one of the features of this case that the closer Roshan got to his sisters, the further he got from his wife. It is also noticeable that whilst her brothers – even Sanjeev – had been included in the family's wealth, Prinaka as yet had not been – although by 2006 she was a dentist. This growing fault-line between Roshan on one hand and his wife and daughter on the other soon cracked over her plan to marry in 2010.

2010 - 2019

75. This period covers the breaking-down of Roshan and Veena's marriage, the crisis around Prinaka's wedding and Roshan's use of Mother's Probate process to transfer 159, Nansen Road and 11 Egginton Street to his sisters. These are topics which I have already discussed in detail in my consideration of the evidence in the case and I therefore will keep my actual findings of fact short and to the point.

76. The brewing problem in 2010 between Roshan on one hand and Prinaka and Veena on the other (in fairness supported by their sons as well) related to Prinaka's impending wedding which was originally scheduled for October 2010. The problem was that the husband Prinaka had chosen for herself was related to Ravi's ex-husband and I accept this was a concern for Ravi and Raj in particular (as I say, Pawan was removed from this situation). However, Roshan himself was not blameless in this. I accept Pawan's evidence that well before the planned wedding, in June 2010, Roshan and Veena visited Pawan in the USA and he complained to her that he felt excluded from the wedding plans. Another issue – in addition to Prinaka's choice of husband – was her insistence that she wanted Veena's family at the wedding which Pawan felt Roshan did not want. Indeed, Roshan himself admits he put back the wedding from October 2010 to March 2011. However, notably, Pawan herself, as well as Raj and Ravi, were invited.

77. Pawan travelled across to stay with Roshan and Veena at 159, Nansen Road for the wedding on 12th March 2011. She gave a vivid (and not strongly challenged) account of hearing Roshan and Veena arguing, which fits what soon followed. But I do not accept that Pawan was 'stirring' as Roshan portrayed – this was another example of him blaming his sisters for his own past conduct. I find Pawan was trying to defuse the tension. However, the evening before the wedding, Roshan suddenly announced that he and his family would not attend it. Understandably, this provoked arguments overnight and in the morning, I accept that Veena, in fairness at the end of her tether with Roshan's petulance, said that 'We do not have time for you. You do not need to come to the wedding' and left without him, In his state of high dudgeon, Roshan decided this meant he had been 'excluded' from Prinaka's wedding when the truth was in fact that he excluded himself. I accept Pawan's evidence that Roshan brooded on this during the day and finally in retaliation excluded his wife and children from getting back into their house – on Prinaka's wedding day. This precipitated the separation between Roshan and Veena which took eight years to heal. Little wonder that in evidence Roshan was so pained in his recollection about this. He has tried to minimise his own disgraceful conduct, relying on Veena's viewpoint that his sisters disliked her. For the same reason, when she could not gain access and her sons called the Police, I do not doubt that Roshan minimised his own behaviour with the Police as well, even if he was not quite so melodramatically as Navin suggests. However, as Navin and Nitin accepted as doctors, the fact they did not notice any depression in Roshan over the following weeks does not detract from the GP's clinical judgement when Roshan attended a few days later on 16th March 2011 complaining about 'being excluded from his daughter's wedding'. The GP felt Roshan was depressed, so prescribed the anti-depressant Citalopram. However, Roshan did not report much improvement when he returned in April or May and I accept that he simply stopped going to the GP, but continued to feel depressed.

78. It is not clear why Roshan initiated a Lasting Power of Attorney ('LPA') for Personal Welfare in March 2011 in favour of Pawan, Nitin and Ravinder, as opposed to a LPA for Property and Affairs which would be more logical in the situation. However, if this was not a mistake, it may indicate Roshan was dwelling psychologically on his own vulnerability. In short, he may well have 'felt vulnerable', but that does not mean he 'was vulnerable' to the influence of his sisters. On the contrary, Freeth's file shows that he was the one in control, with Ravi only playing a minor role with the solicitors (if a major one with Raj behind the scenes). Roshan instructed Freeths in February 2011 – before Prinaka's wedding, having not started Mother's Probate for the six years since she died. I do not doubt that he felt low without his mother, for whom he had cared for many years and that he was particularly close to her. However, until 2011 it had suited Roshan to leave things as they were and to carry on as before. In hindsight, his instruction of Freeths in February 2011 gives a sense that the Probate process from the start went hand-in-hand with Roshan's worsening problems with Veena.

79. However, after they separated in March, in Roshan's mind, what he long feared and what his sisters long warned him about had come true - the breakdown of the marriage and potential claims in divorce against the properties by Veena. Whilst he could not realistically 'hide' from Veena properties in his own name or his son's names, he could at least remove his name from assets in joint names with his sisters, like 21 Bannerman Road; and the joint accounts he had with Raj at the Chelsea Building Society. This included account -245, from which he removed his name on 14th March 2011, even before the GP visit. Having rejected Raj's 'first-name owner' convention, it is clear that even assuming the £17,200.74 paid in back in 2006 came from Raj and Roshan's joint account in India, the vast majority of money in that Chelsea BS joint account -245 was paid in by Roshan:

80. Several other significant receipts in this joint account -245 can be traced back to Roshan's funds. For example, the £7,600 which opened the account was paid from Roshan's HSBC account on 1st March 2006, followed the same day by £10,000 from Roshan's Chelsea BS account -580 in his own name, which he then closed later that month, which explains a further payment-in of £27,157.88. Therefore, at least £53,358.25 (£44,757.88 plus £8,600.37 being Roshan's 50% share of £17,200.74) was Roshan's money.

80.1 Since the further significant payments-in were during 2007-2010 when Roshan was running a large portfolio of properties as well as Crown Construction, he is much more likely to have been able to make deposits than Raj who did not have the same income-stream. So, as in 2006, I find all later significant contributions into account -245 came from Roshan, not Raj.

80.2 This is fortified by Raj's later transfer of the balance of £77,649.45 from account -245 in January 2019 (I believe rather than 2018 given the account closure date) to an account in joint names of herself and Ravi -2207. Since that is less than the last transaction balance on -245 of £99,378.09 in October 2010, several years before closure, this suggests Raj placed c.£20,000 elsewhere, which I infer was what she thought was her own money, with the c.£77,649.45 what she thought was Roshan's money. Certainly, I will find £79,381.35 of the £89,001.35 Raj paid to Roshan in 2019 came from -2207. I will find that the other £9,620 paid to Roshan came from the other three Chelsea BS joint accounts with Raj from which Roshan removed his name.

81. However, in Roshan's mind, removing his name from bank accounts (and eventually 21, Bannerman Road) was not enough to protect his and his sister's family home 159, Nansen Road from a potential claim in divorce by Veena, who had lived there for many years. Such a claim would have been the last thing Raj wanted too, as she lived next door but did not get on with Veena. Therefore, just as Raj and Roshan helped Ravi protect her home and share in 76 Romway Road respectively when she was getting divorced in 1998, so Raj and Ravi – as I say Pawan only found out about this later – helped Roshan do the same after 12th March 2011. As I said, this was a joint plan, not something they manipulated or influenced Roshan into doing. This is why Raj helped Roshan remove his name from their joint accounts but it did not end there. Mother's Probate process which Roshan had already finally initiated offered a ready-made solution for protecting 159, Nansen Road – on which he had expended so much effort and money (and for good measure 11 Egginton Street, the other asset in Mother's name he owned outright). There was no need to do anything with 76 Romway Road in which Roshan had a 50% share with Raj, because it was already in Raj's joint name with Mother, which is why that did not go through the Probate process. Fortunately, 10, Sawley Street and 163 Nansen Road were already in Raj or Pawan's names. 45, Thurlby Road was in Roshan's name, but it could not realistically be 'hidden'.

82. Nevertheless, Roshan and Ravi as Mother's Administrators (as Ravi had also become by April 2011) could hardly be entirely open about this plan with Ms Patel. If it was not actually unlawful (as Veena had no beneficial interest in the properties) they realised Ms Patel could not properly have assisted them to 'hide' assets from a potential divorce claim by Veena. This is why – as I have discussed – Roshan instructed Ms Patel and indeed swore oaths in Probate and tax forms that Mother owned 159 Nansen Road (which he had not only paid for in full but spent thousands on developing and which Mother had repeatedly told him belonged to him) and indeed 11 Egginton Street (which again he had bought in full). However, this was not a fraud on HMRC: Roshan was *over-declaring* the size of the Estate and so the liability to tax, not minimising it as HMRC would be more concerned about. As I say, it was also not a fraud as such on Veena, who did not actually have any beneficial interest and in fact had not yet (and never did) launch divorce proceedings. It was however serious that Roshan swore misleading oaths and I have borne it in mind in weighing his credibility.

83. However, moving to the 2011 transfers themselves, it is important to recognise what they purported to do (and not to do). Unlike the TRI transfers in 2005 of 21 Bannerman Road and 25 Lyme Road which specifically declared the beneficial interests, neither of the TR1 transfers of 23rd September 2011 of 159 Nansen Road and 11 Egginton Street respectively did so. Indeed, they each specifically stated that 'Roshan Lal Hansrani and Ravi Kanta Vig as Executors (sic) for the late Kaushalya Devi Hansrani [i.e. Mother]' were 'transferors' to the transferees namely Pawan, Ravi and Raj and that the transfers were 'not for money or anything that has a monetary value' and 'with limited title guarantee' and the transfers were silent on beneficial interests. 11 Egginton Street had the additional provision that the transferees will perform obligations affecting the property and indemnify the transferors, as 11 Egginton Street had covenants registered. Notably however, so did 159 Nansen Road and there was no such additional provision, possibly because Roshan was living there and would continue to do so.

84. Mr Mitchell relied on Roshan's instructions to Ms Patel on 11th August 2011 leading her to draft those transfers as 'he wants the houses to be transferred into the names of his three sisters and he wants to step out of the equation'. However, that is precisely what Roshan did want – to step out of the *legal title* to these properties, *which was all that was being transferred*. The transfers did not affect the underlying beneficial interests and did not purport to do so. This is why after the estate accounts were approved, in February 2012 Ms Patel returned to the subject of beneficial interests and her suggested deed of gift. However, as I said, when Ms Patel took Roshan through her draft in March 2012, his instructions had changed to 'selling' his sisters the property, which Ms Patel queried. She could tell this did not make sense for him to surrender any interest in his home. Roshan's insouciance in the face of that firm advice is striking. I find he knew full well he was not surrendering anything, as he had agreed with Raj and Ravi (if not Pawan until he later visited her) that they would hold the properties on trust for him and he could have them back when he wanted them – and could stay at 159, Nansen Road. Indeed, I accept Roshan's evidence that his real fear about leaving came not from the transfers to his sisters, but the threat of a claim by Veena on divorce. That is consistent with his long-standing 'mistrust' and 'risk' as he vaguely put it.

85. These findings do Roshan no credit and I find that is why he has been so reluctant about admitting the full truth to me – and more importantly to Veena and Prianka – as well as his son Shub whose wedding he missed in 2013. Whilst he attended his third son Vivak's wedding in 2016, he did not really engage. Of course, his wife and children may not accept my findings. However, if they do, it is worth pointing out in mitigation of Roshan that I have also found that this was a joint plan with at least Ravi and Raj. It is also my finding that Roshan has been wracked by guilt about his behaviour – which is another reason he has perhaps minimised it even to himself. I suspect he brooded on it for those long eight years and often bitterly regretted it, which explains his about-face in 2019. However, absolution or damnation for Roshan's conduct is for Veena and Prinaka, not me.

86. Be that as it may, transferring 159 Nansen Road to his sisters made no practical difference to Roshan, who continued to live there – alone as Veena and the children did not have contact with him for a while. Notably, Ravi complains that Roshan continued to rent out 11 Egginton Street and keep the rent and also about his lack of openness on 21 Bannerman Road, yet there is no objective evidence that she, Raj or Pawan complained about this at the time, suggesting that 'the actual situation' was they expected no rent. Tellingly, Ravi accepts that in 2016 or 2017, Roshan asked her to return 159, Nansen Road and 11 Egginton Street to him and she refused and he got angry. I am not surprised he got angry, as I find that Ravi was reneging on their deal, which is what Roshan asked her to honour.

87. Roshan may also have been angry at Ravi's refusal as he had been very supportive of her. As I said, Ravi had a 1/3 share in 15, Thurlby Road, which was sold for £130,000 in 2016 (it was transferred from Raj and Nitin first to Roshan's son Virat in March 2016 and then finally sold in October 2016). I accept Roshan's explanation that Ravi was pressing to release her share in 2014, so he paid her up front £35,000 in three payments in January 2014 with the rest to follow on the

actual sale. He then paid her another £3,610 on sale in October 2016, completing her 33% share of the net balance of £127,831 (as seen in his Natwest account).

88. However, Ravi has sought to argue that an additional £40,000 which I find on the balance of probabilities Roshan immediately then loaned her in two payments of £25,000 and £15,000 in October 2016 was her share of the sale proceeds of 15, Thurlby Road. But she could not explain why Roshan then paid her £35,000 in 2014 with an extra £3,610. In truth, this was yet more generosity from him to her, as she had already received her share of 15, Thurlby Road but then was loaned another £40,000 from Roshan's share. Ravi did pay back £40,000, but her suggestion that she was 'hiding Roshan's money from Sanjeev' makes no sense. Moreover, Ravi has not paid back yet another £40,000 which Roshan loaned her in December 2016 and she was unable to explain that at all. I find she still owes it.

89. Raj also sought to explain away what I find was plainly a £40,000 loan by Roshan to her in December 2016 (again from his proceeds from 15, Thurlby Road in which Raj had no beneficial interest) by reference to Sanjeev. She claims that this was Roshan 'repaying' her for Sanjeev's theft of her jewellery twelve years earlier in 2004. However, I reject this for the reasons I have already given. Firstly, if necessary to make a finding, I have found that Sanjeev did not steal that jewellery (although he was guilty of shoplifting, that is very different), which is why Mr Kaushal recalls the allegation but also that Raj and Ravi later found the jewellery. In any event, Roshan did not believe the allegation against Sanjeev – and whilst he offered to pay the value at the time, that was before the jewellery was then found. Having been shamed by an inaccurate allegation twelve years earlier, Roshan was hardly likely to pay Raj in respect of it in 2016. This was a straightforward loan of £40,000 to Raj, that again she has not repaid and still owes.

90. It is in part because of these serious problems with Raj and Ravi's evidence that I mentioned earlier that I have also rejected their uncorroborated accusation – again for the reasons I have already given - that Roshan in some way wrongfully retained Father and Mother's jewellery (other than that Mother wore when she died Pawan removed and gave to Roshan which he accepts he still has). As I said, this was not the first thin allegation of theft Raj made about a safety deposit box and I do not accept that Roshan prepared the list they rely on. In any event, even if I accept every word Ravi said in her statement about this issue (which I do not) and find Roshan gave her Mother and Father's jewellery for safekeeping in 2014 with that list but angrily demanded it back in 2018, she does not actually say he took it and I find on the balance of probabilities that Roshan has not had or disposed of it. However, more fundamentally, I do not accept there was such a collection of jewellery in the first place – again for the reasons that I have already given.

2019 - 2022

91. I can deal with this final period in my findings of fact very briefly (not least as I have already summarised the procedural history from 2022 in my introduction). As already observed, the closer Roshan was to his sisters, the further he was from his wife. However, the converse was true. Having missed his son and daughter's wedding, when his youngest son Virat told him he was getting married in August 2019, Roshan finally was determined to re-engage with his own family. He had years to come to regret his actions in 2011-2013 and had begun to re-engage –

characteristically – with property transactions - including his son Vivak in the sale of 15, Thurlby Road the year he married in 2016. From this point, he had begun to see his children more frequently and to improve his relationship with them.

92. Roshan's paranoia about a divorce by Veena had also subsided, which is why in 2016-17 he had asked Ravi to return 159 Nansen Road and 11 Egginton Street. Whilst she had rebuffed him, in fairness I accept Raj did not refuse to return Roshan's money in their joint accounts from which his name was removed in March 2011. Of the total of £89,001.35 Raj owed Roshan from his money in their former joint accounts, she paid him £15,000 in March 2019 when they were still on good terms, but it took her until 27th November 2019 to repay the other £74,001.35. Raj now says that this was a loan to Roshan to help Virat purchase a house. This is inherently implausible in the circumstances of this family in March 2019, let alone in November 2019. Roshan was in a better financial position than Raj to help his own son – and would obviously want to do so himself as part of the bridge-building exercise with his wife and children, not rely on money from Raj.

93. This was successful, since after Roshan attended Virat's wedding in August 2019, a short while later he reconciled with Veena and she moved back into 159, Nansen Road. Moreover, in September 2019, Roshan added Sanjeev to the title of 146, Nansen Road. On 22nd November, Roshan terminated the Personal Welfare LPA in favour of his sisters and stopped paying rent on 164 Nansen Road, 21 Bannerman Road and 25, Lyme Road. It may be that Raj was hoping on 27th November 2019 by repaying to Roshan the £74,001.35 he was still owed that this would pull him back in their orbit. However, given that the dispute had broken out, I do not accept Roshan would have accepted that as a loan for Virat then. It was the repayment of Roshan's money Raj had kept for him. It was the last consensual act between them as by late 2019, the battle-lines in the dispute had hardened.

94. In 2020, as the COVID Pandemic drove families apart, the Hansrani family were managing to do that on their own. Whilst Pawan had authorised Roshan to manage 812 Greenford Road in 2017 and he concluded a contract with the Council in respect of it in January 2020, by March 2020 Pawan's rent had stopped and she emailed him to ask for it. Whilst Roshan briefly tried to involve Ravinder 'to sort the family mess out', by April 2020, he was demanding to him that Raj repay the £40,000, hardly the most sensitive timing given COVID. In May 2020, Roshan emailed Pawan to demand the properties' titles be put into his name and by August 2020 he stopped distributing rent for 8, Quenby Street and in September, his solicitors sent pre-action letters. Pawan responded in October alleging he took jewellery and in January 2021 asserting ownership of her two properties. In March 2021 Roshan applied for restrictions against 163 Nansen Road and 164 Nansen Road, then 10 Sawley Street, 163 Nansen Road, 159 Nansen Road, 11 Egginton Street, 76 Romway Road and 164 Nansen Street. Shortly following an email from Rashmi to Roshan in June 2021, the Claimants' lawyers then responded. There was then an exchange of solicitors' correspondence throughout Summer 2021, with Roshan then regaining possession of 812, Greenford Road in September. In addition to an application to the Lands Tribunal over 45 Thurlby Road which has been stayed as I said earlier, these proceedings were finally issued in May 2022.

95. Both Counsel described this as not a 'law' but an 'evidence' case – although Mr Burton was keen to submit that it was not purely a 'document' case and it will be

apparent that I agree. I have not entirely accepted either side's factual case. That is not so surprising when both sides adopted such extreme positions. It remains to deal with the legal principles and my conclusions, but I can deal with both briefly.

Legal Principles

Legal and Beneficial Ownership of Land

96. Whilst Counsel referred me (and I referred them) to various authorities, it is unnecessary to discuss them in detail. However, given the complexity of the legal and equitable ownership in this case, I will start with basic principles. The leading case on domestic equitable co-ownership is *Jones v Kernott* [2011] 3 WLR 1121. The Supreme Court were concerned with ownership in joint legal names, but Lady Hale and Lord Walker did make this observation about single-name cases at [17]:

> "[T]he claimant whose name is not on the proprietorship register has the burden of establishing some sort of implied trust, normally what is now termed a 'common intention' constructive trust. The claimant whose name is on the register starts (in the absence of an express declaration of trust in different terms, and subject to what is said below about resulting trusts) with the presumption (or assumption) of a beneficial joint tenancy."

To put it another way, the presumption that equitable ownership reflects legal ownership must be rebutted on the balance of probabilities. Though developed for domestic cohabitation, those principles are also applicable in the context of family-owned investment properties: *Marr v Collie* [2017] UKPC 17. Nevertheless, it is important to proceed in the right order, as Lord Briggs emphasised in the Privy Council case of *Gany v Khan* [2018] UKPC 21 at [17]:

> "It is convenient to begin with a re-statement of the basic principles by which equity…provides for identification of beneficial interests arising from a gratuitous transfer of property. First, if either the transferor or the transferee makes a written (or oral) declaration as to those beneficial interests, or they do so together in an agreed form, that will generally be decisive, regardless of the subjective intentions of either of them…*Whitlock v Moree* [2017] UKPC 44. Secondly, and in default of any such declaration, the court looks for evidence from which a common intention as to beneficial ownership may be inferred. This may include evidence of statements made by either party before, at the time of or even after the relevant transfer, the parties' conduct, and the factual context in which the transfer takes place. Sometimes, a choice between possible conclusions as to beneficial interest may properly be arrived at by a process of elimination, whereby the most unlikely conclusions are first removed, leaving the least unlikely as the correct one. Finally, recourse may be had to time-honoured presumptions, such as the presumption of advancement or the presumed resulting trust, where there really is no evidence from which an inference as to common intention may properly be drawn. But these are, in modern times, a last resort, now that historic restrictions on the admissibility of evidence have been removed, and the forensic tools for the ascertainment and weighing of evidence are more readily available to the court."

As noted earlier, Lord Briggs in *Whitlock* at [23] called this 'the equitable toolkit': looking first whether there is definitive written declaration, then whether there is

common intention constructive trust and only then is the question of whether there is a common intention resulting trust. Having said that, even in the 21st Century, the resulting trust retains an important role and it was adopted as the correct analysis on the intra-familial transactions in *Enal v Singh* [2023] 2 P & CR 5 (PC).

97. In this case, Mr Mitchell invokes a further layer of analysis at the first stage of any written instrument: Estoppel by Deed. As explained in *Phipson on Evidence* (2024) 20th Ed at para.5-09-5-16, such an estoppel can arise either from operative provisions or recitals of a deed. The former binds the grantor and all persons claiming under them on the basis that the grantor is precluded from disputing the validity or effect of the grant; whilst the latter only binds the parties or their privies. However, this principle also overlaps with the first stage of Lord Briggs' analysis in *Gany*. As he had explained in more detail in *Whitlock* at [23]-[24]:

> "[W]here the relevant property is transferred to the legal holders by a written instrument, a statement as to the beneficial ownership of the property in that instrument is usually conclusive: see *Vandervell v Inland Revenue Commission* [1967] 2 AC 291, at 312 per Lord Upjohn. The same passage makes clear that any question whether the instrument does address beneficial ownership, and any issue as to what that beneficial ownership is, falls to be decided as a matter of construction of the instrument, which is an objective process, in which evidence as to the subjective intention of the maker of the instrument is inadmissible….Of course, the binding effect of instruments of that kind is subject to the usual equitable challenges such as fraud, duress, undue influence, misrepresentation and rectification, and to the more restricted common law doctrines of *non est factum* and mistake: see generally *Goodman v Gallant* [1986] Fam 106, at 114A-117D.
>
> Next, the co-owners receiving a transfer of property into joint names may themselves declare their agreement as to the beneficial interests on which that property is or is to be held and, if they do so in a written instrument, such as the conveyance to them, the identification of those beneficial interests will again be a matter of construction of the instrument, and recourse to doctrines of resulting, implied or constructive trust is impermissible: see *Pettitt v Pettitt* [1970] AC 777, per Lord Upjohn at 813 and *Gissing v Gissing* [1971] AC 886, per Lord Diplock at 905."

A similar point was made in *Pankhania v Chandegra* [2013] 1 P & CR 16 (CA), although in that case, an exception to it was recognised by Patten LJ at [20]-[21]:

> "20 The question of what constitutes a sham trust has been the subject of considerable discussion in recent years, particularly in the context of attempts to shield assets from the claims of divorced spouses or creditors. But what is, I think, clear is that it must be shown both that the parties to the trust deed (in this case, the claimant and the defendant) never intended to create a trust and that they did intend to give that false impression to third parties or to the court. So, in *Snook v London and West Riding Investments Ltd* [1967] 2 Q.B. 786, at p.802, Lord Diplock said that:
>
> > "….[I]f it has any meaning in law, it means acts done or documents executed by the parties to the 'sham' which are intended by them to give to third parties or to the court the appearance of creating between

> the parties legal rights and obligations different from the actual legal rights and obligations (if any) which the parties intend to create."
>
> 21 This is now recognised as an authoritative statement of what has to be proved in order to set aside a transaction as a sham and applies as much to a trust as any other kind of instrument: *Hitch v Stone* [2001] EWCA Civ 63."

98. Turning to the second stage - the common intention constructive trust - this was summarised by Lady Hale and Lord Walker in *Jones* at [51] and they linked that to a sole name case (unlike *Jones*) at [52]:

> "52…[W]ith a family home which is put into the name of one party only…[t]he first issue is whether it was intended that the other party have any beneficial interest in the property at all. If he does, the second issue is what that interest is. There is no presumption of joint beneficial ownership. But their common intention has once again to be deduced objectively from their conduct. If the evidence shows a common intention to share beneficial ownership but does not show what shares were intended the court will have to proceed as at para 51(4) and (5).…
>
> 51…..(4) In those cases where it is clear either (a) that the parties did not intend joint tenancy at the outset, or (b) had changed their original intention, but it is not possible to ascertain by direct evidence or by inference what their actual intention was as to the shares in which they would own the property, 'the answer is that each is entitled to that share which the court considers fair having regard to the whole course of dealing between them in relation to the property: Chadwick LJ in *Oxley v Hiscock* [2005] Fam 211 para 69. In our judgment,….[this] should be given a broad meaning, enabling a similar range of factors to be taken into account as may be relevant to ascertaining the parties' actual intentions. (5) Each case will turn on its own facts. Financial contributions are relevant but there are many other factors which may enable the court to decide what shares were….fair…."

However, there must also be detrimental reliance on that common intention to complete the constructive trust: *Lloyds Bank v Rosset* [1991] 1 AC 107 (HL).

99. As observed in *Gany*, resulting trust is a 'last resort' available only if the written instrument is silent about beneficial interests and there is no common intention constructive trust as to them either. Nevertheless, both Counsel invoke resulting trusts of two types. The first type is a resulting trust arising on a gratuitous transfer of property. This was argued in *Gany* in relation to a gratuitous transfer between a pre-existing settlor and trustee of a trust of property, held to be trust property but on factual intention not legal presumption. The second type is the purchase of property in another's name, discussed in *Enal* by Sir Nicholas Patten at [34]-[36]:

> "34 Where a property has been purchased and conveyed into the name of someone other than the person who has paid the purchase price the traditional starting point in equity has been to presume that the property is held on trust by the named transferee in favour of the person who has paid for it. Equity is said to lean against a gift unless there is evidence of surrounding and other circumstances which indicates that this was what the payer intended. In the absence of evidence of an agreement or declaration to that effect at the time of the transfer the ascertainment of the payer's true

> intentions will be largely a matter of drawing inferences from the objective facts relevant to the transaction.
>
> 35 One such fact which is a feature of the present case will be that the property has been transferred into the name of a child of the payer. In such circumstances there is a presumption of advancement in favour of the child which, unless rebutted, will displace the presumption of a resulting trust….
>
> 36….The presumption of advancement is…a relatively weak one particularly where the child was an adult at the time of the transfer: see *Laskar v Laskar* [2008] 1 W.L.R. 2695."

As Mr Mitchell submitted, in the absence of written declarations, express agreement, or inference from conduct of common intention of beneficial interests, if there are two unequal contributors to the purchase of a property, they are presumed to take beneficially as tenants in common in proportion to contributions. However, as Mr Burton submitted, to establish such a resulting trust, there must be actual contribution by the party, not simply taking on a mortgage that party intends others to pay on their behalf: *Carlton v Goodman* [2002] EWCA Civ 545.

Joint Bank Accounts

100. The same principles apply to joint accounts as Lord Briggs said in *Whitlock*. Therefore, where there is an express declaration of beneficial ownership on a joint account (as in *Whitlock*) then that is determinative, as Lord Briggs added at [29]:

> "[W]here two or more holders of a joint account all sign an account opening document (or separately sign identical documents) which, on their true construction, declare or set out their respective beneficial interests in the property constituted by the account (loosely, the money in the account), then those are the beneficial interests of the account holders, pending any subsequent variation of them by agreement or otherwise, and an examination of the subjective intentions of the account holders, or of those of them who place money in the joint account, is neither relevant nor permissible. Still less is recourse to the doctrine of presumed resulting trusts permissible, because the potential beneficial owners have declared what are their beneficial interests by signed writing."

101. However, as explained in *Lewin on Trusts* (2024) 20th Ed at para.10-095, where the beneficial ownership is not expressly declared and there is no common intention relating to it but there is only one source of payments into the account, there is a rebuttable presumed resulting trust that all the money is held in trust by the account-holders for the person who provided all the money in it. However, as discussed at *Lewin* at para.10-096, this is subject to the counter-presumption of advancement from parent to child or between spouses, but it may be rebutted, e.g. by evidence that the account is only in joint names for administrative convenience.

102. By contrast, as explained in *Lewin* at paras.10-099-9, where there are multiple sources of payments into the account, as between spouses a beneficial joint tenancy is presumed even with unequal contributions. However, where the account holders and joint contributors are a parent and (even adult) child, the presumption of advancement may mean the child has the sole beneficial interest in the account (although as with land, this is a relatively weak presumption and is easily rebutted).

Equitable Accounting

103. In addition to overhauling the modern principles of common intention constructive trusts discussed in *Jones,* in *Stack v Dowden* [2007] 2 WLR 831 (HL) at [93]-[94], Lady Hale also reconciled old equitable accounting for occupation rent with the modern regime of the Trusts of Land and Appointment of Trustees Act 1996 s.15:

> "s.12(1) gives a beneficiary who is beneficially entitled to an interest in land the right to occupy the land if the purpose of the trust is to make the land available for his occupation….s.13(1) gives the trustees the power to exclude or restrict that entitlement, but under s.13(2) this power must be exercised reasonably. The trustees also have power under s.13(3) to impose conditions upon the occupier. These include, under s.13(5), paying any outgoings or expenses in respect of the land and under s.13(6) paying compensation to a person whose right to occupy has been excluded or restricted. Under s.14(2)(a), both trustees and beneficiaries can apply to the court for an order relating to the exercise of these functions. Under s.15(1), the matters to which the court must have regard in making its order include (a) the intentions of the person or person who created the trust, (b) the purposes for which the property subject to the trust is held, (c) the welfare of any minor who occupies or might reasonably be expected to occupy the property as his home, and (d) the interests of any secured creditor of any beneficiary. Under s.15(2), in a case such as this, the court must also have regard to the circumstances and wishes of each of the beneficiaries who would otherwise be entitled to occupy the property. These statutory powers replaced the old doctrines of equitable accounting under which a beneficiary who remained in occupation might be required to pay an occupation rent to a beneficiary who was excluded from the property. The criteria laid down in the statute should be applied, rather than in the cases decided under the old law, although the results may often be the same."

104. However, as Mr Burton submits, to seek an account of rent received by the Defendant, the Claimants must prove he had an obligation to pay them rent, either as (i) their contractual managing agent, (ii) a fiduciary, or (iii) a trustee. As to (i), the Claimants must prove offer and acceptance, consideration and intention to create legal relations: see *Chitty on Contracts (2024) 35th Ed* at paras 4-207 and 235-240. As to (ii), as explained in *Snell's Equity (2024)* 34th Ed at paras.7-003-013, an individual is only a fiduciary if subject to fiduciary obligations, such as one of the accepted categories of fiduciary relationship like a trustee or an agent; or where someone undertakes to act for another in circumstances giving rise to a duty of loyalty where there is a legitimate expectation that they will not use their position in a way adverse to the interests of the principal. As to (iii), as explained in *Snell* at p.7-004, a 'trustee' can obviously include a constructive or resulting trustee, but an agent is not necessarily a trustee of money collected on behalf of a principal, as it depends whether the agent is required to segregate the money, or can treat it as part of their cash-flow: *Angove v Bailey* [2016] 1 WLR 3179 (SC).

105. Under s.21(3) Limitation Act 1980, constructive and resulting (as opposed to express) trustees must be sued within six years: *Williams v CBN* [2014] 2 WLR 355 (SC). Moreover, as discussed in *Snell* at paras 5-011 and 30-028-030 and *Lewin* at paras.41-121-4, an account in Equity against a trustee or fiduciary can be

defeated by the following equitable defences: (i) 'acquiescence' by the beneficiary to a breach by a trustee at the time by consent with full knowledge of the circumstances; (ii) 'waiver' by the beneficiary after the breach with similarly full knowledge; or (iii) 'laches' by the beneficiary, even within the 6-year statutory limitation period, if there has not just been delay by a claimant, but also prejudice to a defendant such that it would not be inequitable to deny relief to the claimant.

Conclusions

The Disputed Ownership Properties

106. I have tried in my findings of fact to follow the history of the Hansrani family and its properties chronologically, to 'trace' the different properties and accounts and their relationship to the parties and how they changed over time. However, in my conclusions on the Disputed Ownership Properties, I will deal with each of them in turn, not chronologically as on my findings, they fall into different categories.

107. The first pair of properties – and perhaps the most important and contested pair – are 159 Nansen Road and 11 Egginton Street. Whilst on the complicated facts of this case, Mr Burton was right to stress the value of that chronological 'tracing', on the law Mr Mitchell was right to emphasise that the starting point is the most recent written transfers (see *Gany* and *Whitlock*)– i.e. the 2011 transfers of both. Indeed, Mr Mitchell submits that the starting and ending point of the beneficial ownership of 159, Nansen Road and 11 Egginton Street are those two transfers. However, the difficulty with Mr Mitchell's argument – whether framed as an estoppel by deed or as an express declaration by written instrument as in *Whitlock* – is that the 2011 transfers were *silent* on beneficial interest. They expressly transferred legal title of the two properties from Roshan and Ravi as Mother's 'Executors' (strictly, Administrators) to Raj, Pawan and Ravi in her personal capacity. However, they made no declaration of trust in Box 10 of the TR1 – whether as joint tenants, tenants- in-common in equal shares or tenants-in-common in other proportions. As Lady Hale explained in *Stack* at [52], Box 10 was introduced to reduce the complexity around beneficial ownership. However, it has not done so in this case. Therefore, estoppel by deed does not help the Claimants because Roshan does not deny that the transfers were effective to transfer legal title in the two properties to his sisters, he simply contends that is all the transfers purported to do. Mr Burton submits they were not determinative of the beneficial ownership so as to give rise to an estoppel or qualify as an express declaration of trust (e.g. in the sense contemplated in *Whitlock* and *Gany*). I agree. In any event, even if I had concluded otherwise, whilst undue influence has not been pursued, on my findings of fact that these transfers were intended to 'hide' 159 Nansen Road and 11 Egginton Street from any claim on divorce by Veena, I would have had no hesitation in concluding that they were a 'sham' in the sense discussed in *Pankhania*. However, while the 2011 transfers were not determinative of the beneficial ownership of 159 Nansen Road and 11 Egginton Street, Roshan must still prove beneficial ownership: so rebut the presumption that Equity follows the Law (*Jones*). That depends on whether he can establish a constructive or resulting trust on each of the two properties, assessed on their own particular facts.

108. Nevertheless, on my findings of fact, I am satisfied that Roshan has established sole beneficial ownership of 159 Nansen Road by common intention constructive trust and in the alternative by resulting trust, for the following reasons:

    108.1 Firstly, I have found as a fact that when he bought 159, Nansen Road in Father's name, it was agreed between them that it would be put in Father's name out of respect and to secure a mortgage which Roshan could not obtain, but it belonged exclusively to Roshan, who discharged the mortgage. That is detrimental reliance completing a common intention constructive trust.

    108.2 Secondly, even if I am wrong about that, I found as a fact that Roshan made the sole financial contribution to the purchase (and discharged the mortgage) of 159, Nansen Road and the only contribution Father made was his name on the title and the mortgage, which does not give rise to a resulting trust in Father's favour (*Goodman*). On the contrary, it gives rise to a classic sole beneficial ownership resulting trust in Roshan's favour as he has bought a property in someone else's name and there is no presumption of advancement from child to parent, only the other way around: *Enal*.

    108.3 Thirdly, even if I am wrong about that and Father's beneficial interest in addition to his legal title passed to Mother on his intestate death in 1987, I have found it was agreed between Roshan and Mother several times between 1987 and her death in 2005 that Roshan was the sole beneficial owner. Moreover, Roshan relied on that agreement in undertaking further works on 159 Nansen Road at his own expense. Consequently, even if there was no implied trust until 1987, that gave rise to a common intention constructive trust that Mother held the property on bare constructive trust for Roshan. Therefore, Roshan was (I found, deliberately) wrong to include 159 Nansen Road in Mother's Probate because he had the sole beneficial ownership.

    Whichever one is correct, the 2011 transfer did not change or dilute Roshan's sole beneficial interest in 159 Nansen Road. On the contrary, it only transferred legal title and Raj, Ravi and Pawan hold it on bare trust for Roshan absolutely, so he is entitled to an order under s.14 TLATA vesting the property in his own name.

109. I reach the same decision about 11 Egginton Street for essentially similar reasons:

    109.1 Firstly, when Roshan bought 11 Egginton Street in 1988, he made the only financial contribution (there was no mortgage) but put it in Mother's name as I found partly to involve her in his properties and bring her out of her shell of grief for Father and partly to prevent any claim by Veena on the property. I found Mother agreed to this arrangement which Roshan funded, so this constituted a common intention constructive trust that she would hold on bare trust his absolute beneficial interest in 11 Egginton Street.

    109.2 Secondly, if I am wrong about that, again I found as a fact – partly based on Mr Durgai's direct evidence of the sale - that Roshan made the sole financial contribution to the purchase, which gives rise to a classic sole beneficial ownership resulting trust in Roshan's favour without presumption of advancement from child to parent: *Enal*.

    Again, whichever is correct, the 2011 transfer did not change or dilute Roshan's sole beneficial interest in 11 Egginton Street. On the contrary, it only transferred

legal title and Raj, Ravi and Pawan hold it on bare trust for Roshan absolutely, so he is entitled to an order under s.14 TLATA vesting the property in his own name.

110. 45 Thurlby Road is in a different category. I found as a fact that Roshan (or strictly, Veena and his agents) bought it at auction, paying £21,000 with £2,100 in cash as a deposit and that he contributed an additional £3,000 of his own funds, £8,500 from an account in Mother's name and £7,400 from his joint account with Raj. However, I also found that in the ensuing years, Roshan paid Raj rent on 45 Thurlby Road, although given this was only recorded on undated scraps of paper, it was not possible to work out when and so what share of the rent was paid.

111. However, the crucial aspect of 45 Thurlby Road was that the transfer to Mother and Roshan included this declaration of their beneficial interests:

> "[T]he Transferee[s] hereby declare as follows: (a) they are joint tenants in equity (b) the survivor of them can give a valid receipt for capital money arising on a disposition of the land."

I found this clause was evidentially inconsistent with Raj's factual case that she agreed a 50% share with Roshan. However, as Mr Burton submitted, in Law and Equity, it is more fundamental than that. As explained in *Whitlock*, *Gany* and *Pankhania*, an express declaration of beneficial interests leaves no room for an implied trust between them. Therefore, the fact that Mother contributed to the purchase from her account does not change the position. Whilst Raj was not party to the transfer (or a privy since she did not procure it) and so is not bound by estoppel by deed, the transfer is evidentially inconsistent with her case of an agreement with Roshan of 50% constructive trust which I reject. Raj has not pleaded that she had a share on the basis of resulting trust owing to her contribution from the joint account and in any event, I have rejected her evidence that the whole £7,400 from it was her money, so the best she could realistically do was a half-share of that proportion of the price, roughly one sixth. However, there is no room for her to claim a resulting trust from Roshan when he has taken the sole beneficial interest by the right of survivorship when Mother died (which is doubtless why he did not take it through her Probate). The best Raj could do would be a debt claim for her initial contribution, which she has not pleaded, would be out of time and which would have been repaid many times over by the rent she has received, to which in Law and Equity she was not entitled. However, Roshan has not sought to reclaim that and now is too late to do so with a six-year limitation period (save for the last year he paid Raj rent on 45 Thurlby Road from 2018-19 and since he did not claim that sum, he would likely be met with a defence of abuse of process).

112. However, what is sauce for the goose is sauce for the gander. Raj and her sisters can rely upon an express beneficial declaration against Roshan with the next pair of properties - 163 Nansen Road and 10 Sawley Street. Again, the deeds do not formally bind Roshan through estoppel by deed as he is not a party to them, but as he arranged them he was a 'privy' for estoppel by deed. In any event, in each case, they are inconsistent with Roshan having a beneficial interest in either, so the Claimants are entitled to declarations they are joint legal and beneficial owners.

113. The more straightforward property of these two is 163 Nansen Road. The truth is that there is really not a shred of evidence beyond Roshan's say-so that he made any contribution to the purchase or mortgage and I have found that he did not, even

if he later undertook works on the property and collected the rent. Nor do I find any agreement between Roshan, Father and Pawan either on purchase in 1978 or later that Roshan would have any beneficial interest in the property. Indeed, I have found that Roshan distributed the rent to Pawan. If he did so exclusively to her after she transferred the property to herself and Raj, then Raj may have grounds for complaint, but Roshan does not. He must now account for rent to them both:

113.1 This is because whilst Pawan was the sole legal and beneficial owner (as I describe next), in 1991 she made a declaration that she and Raj were now joint legal and beneficial owners and that is determinative irrespective of contribution, constructive or resulting trust (*Pankhania*, *Gany*, *Whitlock*). Therefore, the Land Register is correct and Pawan and Raj are entitled to a declaration that they are legal and beneficial joint tenants. Indeed, I am fortified in that conclusion by Roshan's evidence that he arranged that deed.

113.2 Prior to that (and/or if I am wrong about that), I have found as a fact that 163, Nansen Road was bought by Pawan in her sole name and with a mortgage in her name, which she discharged through payment to Father which Roshan cannot gainsay and I have found he made no financial contribution. Whilst Pawan did briefly transfer the legal title to Father, it was returned after his death (which is how it came to be in her name in 1991) and prior to the declaration of trust she was sole legal and beneficial owner. There was no constructive or resulting trust in favour of Roshan.

114. Whilst 10 Sawley Street is slightly more complex, ultimately the result is the same. However, it helps to articulate my findings in chronological order rather than following the strict order of the 'equitable toolkit' even though I will find the 1991 deed is again determinative. I found as a fact that 10 Sawley Street was bought in 1986 in Father's name with equal contributions of £4,000 from Raj and Ravi, but that the third share was contributed from Father and Roshan's joint account -519. I rejected Roshan's evidence that he bought it outright. Nevertheless, given the third contribution, there might have been an argument for a third share:

114.1 Roshan's contribution came from a joint account with Father. Since I have found he was added to it and the balance was gradually decreasing, I have found that was Father's savings account to which Roshan contributed. Therefore, there were mixed funds in the account and Roshan cannot show he was the sole contributor so as to give rise to a resulting trust for him absolutely. Nor do I consider the presumption of advancement from Father assists because (unlike in *Enal*) Father did not hand over the account to Roshan in his sole name or pay it into Roshan's account, instead Roshan mixed his money with Father's money. Any such presumption is weak and is rebutted on those facts. Accordingly, the likely inference of their intention (see *Whitlock*) is that as the account was in joint names and they mixed funds in it, they held it as beneficial joint tenants. This would mean they each contributed a sixth-share to purchase of 10, Sawley Street. Roshan has not argued he and Father intended any share of property bought from their joint account would be as beneficial joint tenants to give him Father's sixth share on his death to give him a third share. They were father and son, not spouses.

114.2 However, whether or not I am right about that, it is academic because in 1991, Roshan arranged the deed of transfer of 10 Sawley Street which passed

the legal and equitable ownership from Mother (who had inherited legal title from Father when he died intestate) to Raj and Ravi who were defined as 'the recipient' and the deed added this:

> "It is hereby certified that the Recipient shall hold the Property as beneficial joint tenants and that the survivor of them can give a valid receipt for capital money arising on a disposition of the Property."

As Mr Mitchell says, this is a straightforward express declaration of beneficial joint tenancy as between Raj and Ravi and there is no room for implied trusts as between them (*Whitlock, Gany*). Roshan suggested he arranged this to gift Raj and Ravi a third share each in 10, Sawley Street. However, that is simply not what the deed which Roshan himself procured actually says. It unequivocally declared that Raj and Ravi were legal and beneficial joint tenants. The effect of it is by arranging that deed, he effectively abandoned, rather than gifted, any share he had in 10, Sawley Street. Indeed, since he was a 'privy' rather than a party to the deed, he is estopped by deed from denying that. Alternatively, he participated in a common intention constructive trust that Raj and Ravi were the sole beneficial owners. In any event, I have found that is how the family understood it, which is why Ravi and Raj received rent from 10, Sawley Street and Roshan did not. So, he has no interest now in 10, Sawley Street.

115. I turn to the last Disputed Ownership Property: 76 Romway Road. Here, I found as a fact that Roshan bought and paid for it in 1979 but put it in Mother's name out of respect and because he could not get a mortgage, which he then serviced in full and paid off. I can therefore understand Mr Burton's reliance on resulting trust arguments, especially as there is no presumption of advancement from a child to an adult (c.f. *Enal*). However, I went on to find that in 1989 – with Roshan's consent - Ravi did 'purchase' a beneficial share which she later 'sold' to Raj in 1998 for £25,000, which Roshan accepts was 50% of the then-value of 76, Romway Road. However, unlike the previous deeds, it said that Mother (as 'the continuing trustee') and Raj (as 'the purchaser') declared that: 'The survivor of them cannot give a valid receipt for capital money arising on a disposition of the Property'. Mr Mitchell accepted that unlike the other intra-family transfers, this was a declaration of beneficial tenancy-in-common not a joint tenancy. Since Raj bought 50% of the beneficial share, it follows that the other 50% did not change and there was no express declaration in respect of it. As I found, whilst this transfer is evidentially (and indeed equitably) inconsistent with Roshan's claim to the sole beneficial interest, it is not inconsistent with his claim that Mother held the other 50% share of the beneficial interest on trust for him, on one of three bases:

115.1 Firstly, I accept that there was originally a common intention constructive trust that Mother held 76, Romway Road on trust for Roshan absolutely. However, when he decided in 1989 to put it in the joint names of Mother and Ravi, I have found that Roshan – characteristically generously – allowed Ravi to 'purchase' a share, which in 1998 she sold to Raj for £25,000, representing 50% of the then-value, again with Roshan's consent. Therefore, as discussed in *Jones,* over time, the constructive trust was varied by consent.

115.2 Secondly, even if I am wrong about that, Roshan can establish that Mother originally held 76 Romway Road on resulting trust for him absolutely as he

contributed the whole of the purchase price and paid off the mortgage. However, by consenting – indeed initiating - the transfer to Ravi in 1989, he 'sold' her a half-share, whether or not the money went to him or Mother.

115.3 Thirdly, even if wrong about that, the 1998 transfer demonstrates an agreement between Roshan, Mother, Raj and Ravi that Raj had a 50% share in 76 Romway Road. Since it did not go through Mother's Probate, I find Raj and Roshan had agreed that each had a 50% beneficial interest.

Whilst I cannot order Raj or Roshan to transfer to each other their 50% beneficial share, I will hear submissions on whether I should make an order for sale allowing each one to buy the other out: see *Bagum v Hafiz* [2015] 3 WLR 1495 (CA).

Roshan's Liability to Account for Rent

116. It follows from those findings that Roshan has no liability to account rent to the Claimants for 159 Nansen Road, 11 Egginton Street or 45 Thurlby Road. However, in respect of the other properties, as Roshan was an informal and unpaid agent and the arrangements for the accounting of rent were relaxed, I do not accept that he was a trustee of the rent obliged to segregate it, nor indeed that there was a contractual relationship with the Claimants, not least as there was no consideration. However, by receiving money on behalf of his sisters, I do accept that Roshan took on a role as their agent and in any event a duty not to benefit at their expense, such as to make him a fiduciary with a liability to account. On that footing, Mr Burton did not strongly resist an account from November 2019 onwards in respect of any of the properties in which the Claimants had a beneficial interest. After all, Roshan admits he paid no rent on several of them in that period. Whilst he has prepared some accounts on the Disputed Rental Properties, he has not prepared them on 163 Nansen Road, 10 Sawley Street or 76 Romway Road.

117. However, speaking of 76 Romway Road, I do not accept that it would be equitable to order an account which goes back before November 2019 even though Roshan has not paid rent to Raj on it since at least the date of Mother's passing in 2005. After all, I found the reason Roshan in fact never paid rent on 76 Romway Road was because I also found that Ravi – and indeed Raj – never had any expectation of rent and never complained about it until these proceedings. In my judgement, this amounts to 'acquiescence' by Mother, Ravi then Raj that Roshan would not pay them rent. Even if that acquiescence ended in 2019, that would only be prospective, not retrospective. Even if I am wrong about that, as Mr Burton says, the claim to an account could only go back six years from the claim in 2022 since Roshan was not a trustee – namely back to 2016. However, since there was no complaint from Raj from 2016 to 2019 and I have found she had the benefit of a loan from Roshan in 2016 which she has not yet repaid, it would be inequitable to require Roshan to account for rent from 2016 on in respect of 76 Romway Road. In any event, there are Roshan's tax returns from 2016 onwards (which I accept are accurate) deducting declared expenses from rent, he earned £3,064 in 2016/17, £4,932 in 2017/18, £4,814 in 2018/19, £4,700 in 2019/20 and £6,620 in 2020/21 (the last year for which I can see a figure for 76, Romway Road). This totals £24,130.16, which is less than the £40,000 I have found Raj owes Roshan from 2016. Indeed, since Raj would only be entitled to 50%, it would be unnecessary to order an account before 2019 anyway, as Roshan has kept sufficient tax accounts. However, since there are no tax records I can see since 2021 and I can order an

account in respect of the properties since 2019, there is no reason why that account should not include 76 Romway Road over that period, even if it should be straightforward for the years covered by tax returns. However, whilst I can see the force of Mr Mitchell's point that I should not unduly narrow an account over a set period of time, I do not accept that I should extend that set period of time before November 2019. I have explained why in relation to 76 Romway Road, which is the only remaining property for which the Claimants can say they are owed rent before November 2019. I see no purpose whatsoever in ordering an account in respect of an earlier period for properties when the Claimants do not complain they have not been paid rent and never complained at the time. Quite aside from the cost for the parties, it would frankly be a waste of Court time.

The Loans

118. I can deal with these claims extremely briefly since they turn exclusively on my findings of fact and so I have already given my conclusions. I found Raj has failed to prove she loaned Roshan £89,000 in 2019 – indeed I have found on the balance of probabilities that she simply returned Roshan's own money to him. By contrast, I have made findings of fact that Roshan loaned Ravi £80,000 in 2016 of which she has only repaid £40,000 so that £40,000 remains owing. Similarly, I have found that Raj owes Roshan £40,000 from 2016 which she has not repaid. Therefore, whilst I am prepared to order Roshan to account for the rent on the properties in which the Claimants have a beneficial interest from November 2019 onwards, he would also be entitled to set off £40,000 from what is owing to Raj and £40,000 from what is owing to Ravi. Therefore, the net balance is likely to be modest. Therefore I am minded to stay the account for a period to encourage the parties to see if they can resolve mutual accounting/debts by agreement. However, I will hear any submissions on this point at the consequentials hearing.

Gold and Jewellery

119. Likewise, I have already given my factual conclusions on these claims. I have found that Roshan has not retained any gold or jewellery (or for that matter, cash) belonging to Mother and Father, save the jewellery that Mother was wearing when she died, which Roshan has agreed to share with his sisters. So, I am not minded to make any order in respect of delivery-up, but would encourage the parties to agree an order in respect of it – it is an intensely personal matter and for the sake of Mother's memory I would hope the siblings can reach an agreement about it. If they cannot, again I will hear submissions on both at the consequentials hearing.

Postscript

120. I started the trial by making it clear to the parties that I could not ensure a completely clean break between them, although it seems apparent to everyone that would be in the whole family's interests. From my findings, really the only 'loose ends' are (i) 76, Romway Road, (ii) the account of rent from 2019 and (iii) the loans of £40,000 each from Raj and Ravi outstanding from Roshan. As I say, if necessary I will hear submissions about a 'buy-out order' for 76 Romway Road following *Bagum* at the consequential hearing which is listed for 21st August 2024. But I urge the parties if at all possible to use the time between now and then to agree a way forward to resolve all the loose ends without the need for further

proceedings for an account etc. I started this judgment by saying that at that hearing I would have to decide which side was ‘winner’ for the purposes of costs, but that in truth the whole family had lost. It is not too late for both sides to spare themselves the costs risks in this case by trying to reach agreement. I warn each of them that if I take the view that either side has not properly engaged with attempts at settlement, even now, that will have serious consequences on costs.