

In the Royal Court of Jersey.
MATRIMONIAL CAUSES DIVISION.

117/84

In the year 1985 , the twenty-ninth day of April.

BEFORE Peter Douglas Harris, Greffier Substitute.

Between

B	Petitioner
AND	
P	Respondent
and	
L	Co-Respondent

Referring to the decree nisi pronounced in this cause on the 17th day of October, 1984;

Upon hearing the oral evidence of the petitioner and of the respondent and having also heard the witness called by the respondent and upon hearing the advocates of the petitioner and the respondent it is ordered:-

1. by consent, that A , B and C , the children, issue of the marriage between the petitioner and the respondent do, until further order of the Court, remain in the joint legal custody of the petitioner and the respondent whilst remaining under the care and control of the petitioner;
2. by consent, that the respondent do have access to the said children as follows:-
 - (a) on one day in each week after school by mutual arrangement;
 - (b) on one day at each weekend, by mutual arrangement;
 - (c) for up to two weeks during the year for the purpose of taking the said children on holiday out of the Island;
3. that the respondent do pay, or cause to be paid, to the petitioner, as from the date of this order:-
 - (a) the sum of one pound (£1.00) per annum towards the support of the petitioner during their joint lives or until further order; and
 - (b) the sum of one pound (£1.00) per week towards the maintenance of each of the said children for so long only as the respondent remains unemployed;

4. that the quantum of the maintenance payments in respect of each of the said children be reviewed as soon as the responder is again in employment and it is directed that the respondent do advise his advocate as soon as he is again in employment;
5. that the respondent do, within six months of the date of this order pay, or cause to be paid, to the petitioner a lump sum of £2,500;
6. that the decree nisi be not made absolute until the respondent has complied with the order contained in paragraph 5 hereof;
7. that each party do pay his or her own costs of and incidental to this suit.

P. J. Hiron

Greffier Substitute.

29th April, 1985.

117/84

B -v- P

The parties in this cause were married in 1971, the husband being some ten years older than the wife. There are three children, issue of the marriage, now aged 10, 8 and 6. After an initial period of living in Jersey, the family moved to Somerset, in 1973, remaining there until 1978. During that period both parties worked, the children being largely cared for by the wife's mother. Each party contributed equally to the deposit on the matrimonial home, the balance being covered by a Local Authority Mortgage.

In 1978 the family returned to Jersey to live in St. Helier, a property owned by the husband's mother, Mrs. W. The English property was let and the mortgage discharged by means of a loan of £7000 from Mrs. W. It was from about that time that the marriage ran into difficulties and in June, 1981, the husband left the home and set up house with the co-respondent. By agreement he paid maintenance to the wife at the rate of £250.00 per month but he saw the children rarely. The property was in a dilapidated condition and it appears that the wife faced severe problems in bringing up the children in such an environment. In May, 1983, the husband lost his job and, in order to help support the family, the wife took in lodgers over a period of about three months until, in August, 1983, both the electricity and water were cut off through non-payment of accounts, and the lodgers could no longer be kept. In order to provide an income the wife took a typing course but meanwhile was forced to seek Parish Relief and also the help of the Children's Office in view of the unsatisfactory condition of the property in which she was living. The husband took the children to his mother's home for most of 1984 the wife believing that there was a more comfortable and suitable place for them. In October, 1984, the wife left the property and went to live with friends.

Earlier this year the wife took the children back on the promise of getting States' accommodation. It is relevant to this matter that it was the wife who made the substantial efforts to secure proper accommodation for the children; the husband seems all along to have made no noticeable effort at all being content to rely on the good will of his mother and the co-respondent.

-The-

The petitioner is now in employment at the Trustee Savings Bank and whilst needing a contribution from the husband for the children would probably be able to support herself and the children for a limited period. The main problem is that the husband has remained unemployed since 1983; he protests that he has made every effort to secure further employment but without success; this must pose the question as to whether, in order to make matters as difficult as possible for the wife and the children, this continued unemployment is not of his own making and that in order to live (apart from receiving relief to the tune of £17.00 per week) he is quite content to live at other's expense. Inevitably this means that the children will suffer.

I turn now to the question of the family assets and how they should be divided between the parties. The main family asset was of course the house in *Somerset*. After being let for a period the property was sold for some £22,000 but after repayment of the loans made to the husband plus other not insubstantial accounts, the net proceeds amounted to some £2840. The wife has received none of that and it is wholly wrong that she should be deprived entirely of a share in the proceeds. It is plain that the husband has been more concerned to meet his obligations to third parties than to ensure that the wife received any part of the proceeds of sale of the house. The husband's assets are now limited, although he still has the prospect of a gift of the life interest in the *St Helier property*. This means, of course, that to order other than a fairly nominal amount by way of lump sum payment would be self-defeating.

I find that, so far as justice can be seen to be done in this case, the respondent must pay £2500 to the petitioner as a lump sum payment. How he raises that amount, considering how much of the original asset has gone, is a matter for the husband to work out. There will be no decree absolute until the lump sum is paid.

A revision of the maintenance payments in respect of the children will take place as soon as the respondent is again in employment, although the wife will not thereby be estopped from applying for a modification order if the period of unemployment is unduly prolonged. As both parties are on legal aid there will be no order for costs against either party.

P. J. Hanson

Greffier Substitute

