THE HIGH COURT

CIRCUIT APPEAL

[2024] IEHC 492

Record No.: 2023 21 CAT

MIDLAND CIRCUIT **COUNTY OF ROSCOMMON**

IN THE MATTER OF THE FAMILY LAW (DIVORCE) ACT, 1996 AND IN THE MATTER OF THE FAMILY LAW ACT, 2019

BETWEEN/

C. C. K.

Applicant/Respondent

AND

S. L. K

Respondent/Appellant

Judgment of Ms. Justice Nuala Jackson delivered on the 8th July 2024

1. This matter comes before me by way of an appeal from the Circuit Family Court where the Appellant husband ('the Appellant') submits that proper provision has not been made by the court below.

2. This is a long marriage; the parties having married in 2001. Unhappy differences arose in or about 2016 and proceedings for judicial separation commenced in January 2017. This matter comes before me by way of an application for divorce pursuant to a civil bill dated the 11th June 2021. Ancillary reliefs are sought in this context.

THE CHILDREN

3. There are four children of the marriage, three of whom remain dependent. The dependent children are all teenagers, attending secondary school. It is a sad aspect of this case that relationships between the children and the Appellant have entirely broken down. There has been no contact between them for a considerable period of time. This is most unfortunate. The parties are very much at odds as to why these relationships have broken down and it is greatly to be regretted that these fractures were not addressed at an earlier stage. There was a previous access order made by the District Court which provided for supervised access between the Appellant and the children, supervised by the Respondent wife ('the Respondent'). Assertions of blame for this breakdown are made by both parties against the other with the Respondent asserting misconduct by the father against her and the children and the Appellant asserting that the relationship was not supported and, indeed, was actively hindered by the Respondent. There is no doubt that it would have been most advisable that this matter would have been brought before some court at a much earlier stage in order to address these matters. It would also have been greatly to be recommended that there would be an expert report in circumstances in which there is clearly a complex dynamic arising in relation to the children's relationship with their father. However, none of these steps has been taken. Access has not occurred at this point since 2017 and the Appellant's Senior Counsel indicated that orders were not being sought in respect of arrangements for the children having regard to their ages and the lapse of time. Of course, in the context of divorce and my obligation to make proper provision, the well-being and welfare of the children cannot be disregarded. There are some points which require to be highlighted:

    A. There would appear to have been very considerable inaction on the part of the Appellant in relation to sustaining the relationship between himself and the children. His evidence that he had corresponded in this regard through his solicitor but had not made any direct contact with the children lacked parental enthusiasm. The suggestion that he had many years of gifts for significant occasions in the children's lives over many years stored in his now accommodation was, likewise, unimpressive. Additionally, while child financial support and child relationship support are not inter-dependent, neither are they entirely distinct matters and the failure to comply with court orders in

respect of the maintenance of the children was unimpressive. I will consider this further below.

B. Clearly there are historical relationship issues arising between the children and their father. The evidence before me in this regard was somewhat sporadic in nature such that I am not in a position to make definitive findings relating to it but it is most unfortunate that neither expert assessment or interventions nor court application in this regard was made over a prolonged period. It is difficult to resist the conclusion on the evidence before me that the promotion of a relationship with his children was not the priority of the Appellant.

C. The Appellant remains a guardian of the children and it is clear from the evidence that the Appellant's input has not been sought to any degree in relation to guardianship issues. It would appear that he has not been consulted or informed in relation to educational or medical issues, resulting in a high degree of exclusion. However, guardianship is a responsibility as well as a right and it cannot be denied that the Appellant has abdicated this responsibility to the Respondent all the while accusing her of denying him his guardianship recognition. Certain of the children have additional medical and educational needs and the Respondent has been left to manage these alone and she has done so with considerable commitment. However, the fact remains that the Appellant should, at the very least, have been kept informed so that he might take appropriate steps in the event of disagreement.

D. There have been failures on the part of both parents in this regard and it is regrettable that the passage of time has likely created a situation which is unlikely retrievable in the short term, if at all. However, I did form the view that there had been substantial inaction on the part of the Appellant, demonstrating perhaps a lack of interest on his part as regards these issues. He should be kept informed of major milestones in the children's lives and the Appellant should receive regular updates from the Respondent in respect of the lives, health, education and the general life development of the parties' children but it is not my intention to make any orders in this regard as the evidence which I have heard indicates that these children are doing well and are progressing most

positively along their lives' journeys and I do not believe that it would be in their welfare to upset this at this time.

E. There is, of course, always liberty to apply in this regard during the minorities of the children should either parent believe that welfare issues arise which are not being adequately addressed. Such future applications should be made to the Circuit Family Court.

PREVIOUS ORDERS

4. There have been a number of previous Orders in this matter. I believe that the most pertinent of these are:
    - Protection Order (2016)
    - Barring Order (2017)
    - Undertaking to remain away (2018)
    - Maintenance Order (2017)
    - Access Order (2017)

5. The Orders and undertakings relating to domestic violence would appear to have been complied with. It is a matter of some considerable concern that there would not appear to have been compliance with the maintenance and access orders. Indeed, I had the impression during the course of the hearing that both parties viewed compliance with court orders as a matter of choice rather than obligation. Such a view is unfortunate to say the least and unacceptable in any event. However, it must further be noted that such non-compliance was not followed up with efforts at enforcement being pursued with any enthusiasm. Having said this, it must always be remembered that the obligation to comply with a court order is the responsibility of the person upon whom such order places responsibility. It is due to the lack of adherence to court orders that I believe that it is desirable in this case to attempt to achieve a clean break to the extent that this is possible in the circumstances of this family.

6. The evidence before me is that both parties are in full time employment, in similar occupations, the Appellant having a somewhat higher income than the Respondent

based upon the fact that he works overtime to a greater degree. This is not a case, in consequence, in which spousal maintenance requires to be considered as both have a long and experienced work history in permanent employment.

7. The appeal herein (Notice of Appeal is dated the 22nd October 2021) is from the whole of the judgment of the Circuit Family Court. In this regard, on the agreed evidence of the parties, I have no doubt that there are entitled to a Decree of Divorce subject to proper provision being made. It is common case that they have lived apart since 2016. The Civil Bill for Divorce issued on the 14th June 2021. In consequence, at that time, they had lived apart for a period in excess of two years in the three years preceding the date of the institution of proceedings as the law requires.

PROPER PROVISION

8. There are three issues for consideration and determination by me in the context of proper provision.

(i) The family home:

The family home is held in the joint names of the parties. It was purchased by them both in or about 2010 and there would not appear to be any substantial dispute that both contributed to its acquisition and to the repayment of the mortgage thereon. There is a modest mortgage remaining. Since separation, the Respondent has resided therein with the children and the Appellant is in rented accommodation elsewhere. The Appellant has continued to discharge one half of the mortgage on the property (as directed by court order) and he would appear to have done so assiduously. I have determined, in the absence of oral evidence being adduced by either side and, in particular, in the absence of cross-examination, that a median valuation of this property between the two written valuations produced is appropriate. The Appellant's valuation is described as a "drive by" valuation. It is in the sum of €350,000. The valuation of the Respondent is in the sum of €290,000. The exercise of applying a median valuation values the property at €320,000. The current mortgage on the property is in the sum of €66,000. There was evidence

before me of certain works which require to be carried out to the premises which are likely to cause expense to be incurred. There was also evidence of a boundary dispute. The Appellant appeared to have little knowledge of these issues and I was not provided with evidence as to the likely costs associated with these matters. Adding to the lack of clarity in this regard, the Respondent's valuation likewise did not refer to these issues concerning the property. This may be explained in respect of one of the issues allegedly arising as the correspondence in this regard (31st May 2024) post-dated the valuation date (8th April 2024). However, as regards the boundary dispute, the correspondence (22nd January 2024) in this regard pre-dated the valuation and yet the latter makes no reference to it. I formed the view that there were likely to be some limited works necessary to address these issues and, perhaps, certain legal expenses arising. I have formed the view that an allowance of €10,000 is appropriate. This leaves an equity of €244,000.

9. It is clear that the parties have equally contributed to the purchase of the family home, both worked hard providing for the family during the time that they resided together and the mortgage has since that time been discharged equally by them. On this basis, the current equity owned by each of them is €122,000.

10. To date, as previously stated, the Appellant has been discharging one half of the mortgage repayment. He will not be doing so going forward but the children will still require to be housed during their dependencies. This responsibility will, in all likelihood, fall entirely upon the Respondent. In these circumstances, I am of the view that a 45/55 division of the equity is appropriate (€109,800 (Appellant) and €134,200 (Respondent)).

(ii) Maintenance for the children:

A modest maintenance order was made by the District Court in March 2017 in the sum of €100 per week for the support of the then four dependent children (additional to the Appellant discharging one half of the mortgage repayment). In circumstances in which both parents are full time employed in permanent jobs, it is inexplicable why such modest maintenance would not be paid. It amounts to a sum of €3.56 per child per day. I have referenced above the continued discharge of one half of the

mortgage by the Appellant. It is regrettable that no such regularity was demonstrated in his payment of maintenance for the support of the parties' dependent children and, with limited exception, the financial support of the children has been substantially left to the Respondent. She has had some social welfare/grant assistance in this regard.

(iii) Pensions

Both parties would appear to have modest pensions with the value of the Appellant's pension being somewhat greater than that of the Respondent. I am also mindful that the Respondent is a few years older than the Appellant. I believe therefore that proper provision requires that there should be pension equalisation to the date of the Circuit Family Court order herein being the 14th October 2021.

DECISION

11. The Family Law (Divorce) Act, 1996 as amended ('the 1996 Act') is clear in relation to the issues to be considered in the context of making proper provision. Sub-section (1) of that section is clear that *"the court shall ensure that such provision as the court considered proper having regard to the circumstances exists or will be made for the spouses and any dependent member of the family concerned."*

12. Sub-section (2), without prejudice to the generality of sub-section (1), recites particular matters to which regard must be had. I have considered all of these factors to the extent relevant in this instance. Using the equivalent lettering to the sub-sub-paragraphs:

(a) I have had regard to the incomes of both parties, the only property which they hold, being the jointly held family home, and their other resources including cash sums from a personal injuries award of the Respondent, an educational policy taken out and paid for by them both and savings derived from joint funds but lodged to an account in the sole name of the Appellant;

(b) Both parties have accommodation needs going forward and they have three dependent children, all still at secondary school stage. I have had regard to the particular health circumstances of certain of the children;

(c) The Appellant and the Respondent are both hardworking people who have carefully garnered their resources during the marriage and since separation. The Respondent has, undoubtedly, been more focussed on maintaining the children's lifestyle and upon their well-being since separation;

(d) This is a long marriage and both parties contributed to it. The Appellant is a little younger than the Respondent;

(e) I have heard no evidence of physical or mental shortcomings on the part of either of the parties. The Respondent has recovered fully from her personal injuries event and is in full time employment and is also pursuing new educational paths;

(f) I formed the view that there were concerns about future contributions by the Appellant towards the support of the parties' children given his poor record of maintenance payments. I believe that the Respondent will continue to support the children in their various endeavours during their dependencies;

(g) Both parties continued to work full time during the marriage. Their commitment to hard work cannot be doubted;

(h) I have had regard to all social welfare and grant entitlements arising;

(i) Serious marital misconduct issues were pleaded in the civil bill for judicial separation filed by the Respondent herein. These were not repeated in the civil bill for divorce before me but the previous court orders made (including orders relating to domestic violence) were recited therein. Issues of marital misconduct were not advanced in any substantive way at the hearing before me. The issue of litigation misconduct is considered below;

(j) Both parties have accommodation needs going forward. The responsibility for accommodating the children during their dependencies will fall to the Respondent;

(k) Not applicable in this instance;

(l) Not applicable in this instance.

13. A maintenance order was made by the District Court in respect of the upkeep of the children and this is currently in arrears in the sum of €34,000 (this sum was not disputed by the Appellant). These arrears have accrued over a considerable period of time and there have been prolonged periods during which no maintenance was paid. Court orders simply cannot be ignored in the manner adopted by the Appellant herein. No application was brought to vary the said maintenance payment and, given the circumstances of the parties and the modest maintenance sum payable, it is difficult to

envisage how such an application might have been successful. In any event, I do not need to ponder this as no such application was made. Therefore, from his 45% share, the Appellant owes his wife a sum of €34,000, reducing his equity share to €75,800.

14. Given the approach and attitude of the Appellant to date to the payment of maintenance for the support of the children of the marriage, I have formed the view that a lump sum in respect of maintenance for the children is appropriate. The remaining dependent children have a potential maximum dependency period of approximately 6, 7 and 8 years each. Of course, dependency may cease prior to their attaining the age of 23 years. However, all of the children appear to be high achievers and it is most likely that they will proceed to third level education with the consequent expenses. I have therefore determined that it is appropriate that a lump sum of €50,000 would be paid to the Respondent by the Appellant in respect of future maintenance for the children. This amounts to less than €50 per week per child (€45.78) to age 23, slightly more in the event that there is earlier cessation. However, I have heard evidence of a desire on the part of one of them, at least, to pursue a lengthy course of third level education. I believe that this is, considering all of the financial circumstances of the family, modest. This reduces the buy-out sum due to the Appellant to €25,800.

PERSONAL INJURIES AWARDS AND PROPER PROVISION

15. The Respondent received the sum of €100,000 by way of damages in respect of a personal injuries event. The incident arising from which these monies were received occurred during the marriage while the award was received post-separation. It would appear that €10,000 of this award was gifted by the Respondent to one of the children. This is a child who has had particular life challenges and, while it is unfortunate that this transfer was made while matrimonial litigation was extant between the parties (it was done during the course of judicial separation proceedings), I do not intend to interfere with this in all of the circumstances. The balance of circa. €90,000 received by the Respondent in the context of personal injuries litigation remains available. This sum will be further considered in the context of non-disclosure and litigation misconduct which is addressed below. There is little authority in relation to the manner in which personal injuries awards should be treated in the context of determining proper

provision and ancillary reliefs under Irish law. The relevant considerations would appear to be:

a. clearly, the monies derived from such award are not excluded from consideration in this context. Section 20 of the 1996 Act does not exclude any category of asset and makes unrestricted reference to "*other financial resources*". There is ample authority, however, that, while Irish law does not apply the categorisation of assets into matrimonial and non-matrimonial assets, there are certain types of assets which are differently considered, for example, pre-marital assets, inherited assets and such like. It is my view that personal injuries awards are another such category for distinct consideration.

b. This matter was considered by the Supreme Court in **F.McK v. O.L**. [2011] 1 IR 263 in the context of a case stated from the Midlands Circuit. The case concerned was under the Family Law (Maintenance of Spouses and Children) Act, 1976 involving an application for child maintenance in a non-marital situation. The court was therefore considering the checklist of factors under section 5A(3) of the 1976 Act (in this particular regard the wording is very similar to that currently under consideration in the context of the 1996 Act). Finnegan J. stated:

> *"I am satisfied that the award to the respondent by the Residential Institutions Redress Board (and which award it would appear is payable in instalments pursuant to the provisions of the Residential Institutions Redress Act 2002 section 13(8) and section 13(14) inserted by the Commission to Inquire into Child Abuse (Amendment) Act 2005 section 34(e)(iv)) is income, property or other financial resources for the purposes of section 5(A)(3). The court in deciding whether to make a maintenance order is required to have regard to the same in addition to having regard to all the circumstances of the case."*

The Supreme Court considered the English authorities of **Daubney v. Daubney** [1976] Fam 267 and **Wagstaff v. Wagstaff** [1992] 1 FLR 333. In the latter case, Butler-Schloss LJ (as she then was) stated:

"I do not understand Scarman L.J. as saying that no part of damages awarded under the head of pain, suffering and loss of amenity should be charged with the other spouse but, if he did, then I respectfully disagree. The reasons for the availability of the capital in the hands of one spouse, together with the size of the award, are relevant factors in all the circumstances of section 25. But the capital sum awarded is not sacrosanct nor any part of it secured against the application of the other spouse. There may be instances where the sum awarded was small and was specifically for pain and suffering in which it would be unsuitable to order any of it to be paid to the other spouse. In some cases the needs of the disabled spouse may absorb all the available capital, such as the requirement of residential accommodation."

While acknowledging that each case must be addressed on its individual facts, the approach referenced above was also endorsed by the Court of Appeal of England and Wales in **Mansfield v Mansfield** [2011] EWCA Civ 1056.

c. it may be that the nature of the damages award will require to be addressed. Special damages (excluding loss of earnings) may yield no benefit to the injured party save in the context of enabling the discharge of expenses which have accrued. Loss of earnings claims recovered may be of relevance in the context of considerations of maintenance.

d. In the present instance, no breakdown of the sum received into general and special damages was proffered to me. It was unclear how the sum received had been calculated. It appears most likely that a composite sum in respect of all types of loss was agreed. General damages are awarded for pain and suffering. To what extent should damages so awarded be included in a family 'pot' for distribution? In some cases, inclusion will be entirely inappropriate in particular in circumstances in which there are ongoing and/or permanent *sequelae* from the personal injuries event such that the recipient will continue to suffer pain and suffering and/or the entirety of the award will be utilised in addressing future needs arising from the injuries sustained (as was the position in **C v C** [1995] 2 FLR 171). However, it is my view that pain and suffering can also impact upon family life. Additionally,

much will depend upon the overall resources of the family in determining whether proper provision can be made without including such extraneous resources or not.

e. In the present case, both parties have accommodation needs going forward and while this family was in what might be described as a comfortable financial position as one unit, resources are much more challenged in the context of establishing two households. I must be mindful of all of these factors in making proper provision. I do not believe that the personal injuries award, in circumstances in which the recipient would appear to have substantially recovered and has returned to full time employment, can be entirely ignored in the circumstances of this case. I am also mindful of the non-disclosure of the sums concerned which is detailed in paragraph 16 below. Having regard to all of these factors, it is my view that 50% of the remaining €90,000 should be included in the asset pot for distribution and, of this €45,000, I am allocating one third to the Appellant being €15,000. This means that the Respondent must pay him the sum of €40,800 to buy out his interest in the family home.

NON-DISCLOSURE AND LITIGATION MISCONDUCT

16. The integrity of the process whereby a court is constitutionally obligated to make proper provision is very significantly impacted upon if there is non-disclosure or litigation misconduct. The latter can take many forms but as arises in this case, it is my view that non-disclosure is a serious form of litigation misconduct primarily due to the negative impact which it has upon the carrying out by a court of its constitutional obligations.

17. I have had regard to the guidance in this regard in the seminal judgment of Irvine J. in **Q.R. v S. T.** [2016] IECA 421 where she stated:

> *"Litigation Misconduct*
>
> *61. As to whether litigation misconduct and in particular the failure of a party to meet their statutory obligation in terms of disclosure is conduct which it would be unjust for a court to ignore in the context of s. 16(2)(i), that is a matter for the discretion of the trial judge having regard to all of the circumstances of the case.*

62. The policy considerations which underlie the obligation of parties to be candid and to fully comply with their disclosure obligations in judicial separation and divorce proceedings are well described by Baroness Hale in her decision in Prest v. Petrodel [2013] AC 415 where, in the context of divorce proceedings, she stated the following at p. 504: "There is a public interest in spouses making proper provision for one another, both during and after their marriage, in particular when there are children to be cared for and educated, but also for all the other reasons explored in cases such as McFarlane v McFarlane [2006] 2 AC 618. This means that the court's role is an inquisitorial one. It also means of the parties have a duty, not only to one another, but also to the court, to make full and frank disclosure of al the material facts which are relevant to the exercise of the court's powers, including of course their resources: see Livesy (formerly Jenkins) v Jenkins [1985] AC 424. If they do not do so, the court is entitled to draw such inferences as can properly be drawn from all the available material, including what has been disclosed, judicial experience of what is likely to be being concealed and the inherent probabilities, in deciding what the facts are."

63. Further guidance is to be found in the decision of Ryan J. in K.C v. T.C. (Unreported, Court of Appeal, 12th February, 2016) , where in the context of one party's aleged litigation misconduct he stated as follows: "To the extent, therefore, that the court was deciding that one party's conduct constituted litigation misconduct giving rise to grave consequences in the case, I think there had to be clear evidence to establish it and anything tended to demonstrate the innocence of the party has to be carefully weighed up by the court. One can have a situation where somebody makes a mistake- as opposed to telling lies or seeking to mislead - and the court must be alive to that possibility. It can also be the case that a person is reluctant at first and then comes forward with the relevant information so that he or she is open to legitimate criticism in respect of previous behaviour, but may not now be engaging in similar conduct. The short point is that before a party is condemned for failure to co-operate, and even more so, before somebody is declared to be guilty of litigation misconduct by actively trying to mislead the court, the trial court must be careful about its findings."

64. This helpful passage from the decision of Ryan J. would suggest that when determining the manner and amount of the provision to be made for the parties it would be unjust to rely upon litigation misconduct, unless, having considered carefully a l of the evidence which might favour a finding of mistake or innocence, the court was convinced that the party concerned had deliberately told lies, had sought to mislead the court and/or had still not made full disclosure."

18. The constitutional and legislative obligation to make proper provision is a fundamental aspect of the protection of the family as it is only by achieving this that all members of the family unit are protected and properly provided for, in accordance with individual family circumstances, going forward.

19. It is regrettable that there were serious shortcomings on both sides in this regard in this case. I have considered above the role which an award of personal injuries compensation should have in the context of allocation of financial resources to achieve proper provision. However, separate and distinct from this is the duty of disclosure of all financial resources. It was admitted by the Respondent herein that she had received a personal injuries award subsequent to the issuing of judicial separation proceedings in 2017 and prior to the issuing of the divorce proceedings currently being considered by me. This award arose from an event which occurred during the course of the marriage. However, in the Affidavits of Means sworn by the Respondent prior to the hearing before the Circuit Family Court, the funds from such award were not disclosed. It was agreed before me that at the hearing before the Circuit Family Court, the fact of the award and the amount of it was revealed and the court was aware of it. It was also agreed that the Respondent had, in evidence, informed the Circuit Family Court that the funds had been fully expended which information was not truthful. The remaining funds were disclosed in the two Affidavits of Means sworn by the Respondent in the context of this appeal. The fact remains that it has taken the prosecution of this appeal by the Appellant to achieve honest disclosure herein on the part of the Respondent. Having regard to the totality of the assets of the parties in this case, the sum involved in this exercise was significant. It cannot be said with any assurance that this would not have been a factor which would have influenced the Circuit Family Court determination of proper provision and, as importantly, it does significantly alter the

respective financial positions of the parties. These funds are clearly relevant to factors/circumstances to be considered by a court as set out in section 20(2) of the 1996 Act. Affidavits of Means are sworn documents. In the context of financial provision cases, they contain fundamental evidence. Care must be taken in their preparation. While a variety of reasons may lead to inaccuracies, these inaccuracies should be corrected and explained at the earliest possible opportunity. In this instance, the omission was not an error. It was not accidental. The Appellant (indeed, the courts) have only had a true picture in the context of the appeal. I am of the view that the fact that full and accurate disclosure was delayed in such a manner must be reflected in proper provision. I believe that such reflection may sometimes most appropriately take place in the context of costs. In the present case, I have done so in the context of the share of the personal injuries award which I have allocated to the Appellant and also in the context of the allocation of joint savings in paragraph 21 below.

20. The disclosure shortcomings were not unique to the Respondent herein. I note that disclosure by the Appellant was deficient in relation to a savings account, accumulated from joint funds, which account was in his sole name. The Respondent produced two pre-separation statements relating to this account which demonstrated that (a) the account was funded from joint funds and (b) that there was a sum in excess of €6500 in the account in September 2015, approximately 12 months pre-separation. The Appellant says these funds were expended and that the account now has a nil or minimal balance. It is his account. He has full access to it. It was not disclosed in any Affidavit of Means sworn by him nor was it vouched. The resolution of disagreement in relation to these funds was entirely within his control to resolve.

21. Having regard to the overall conduct of the litigation herein (and the matters at paragraph 19 hereof caused me considerable concern), I am directing that the Appellant is to be legally and beneficially entitled to whatever funds were or remain in the Permanent TSB account [REDACTED].

22. A further issue arose in relation to an education fund. This would appear to comprise a policy taken out some years ago with the intention of assisting with education costs for the eldest child of the marriage. The policy is in the sole name of the Appellant and is

clearly beneficially owned by the parties. Details relating to this policy were scant but from the evidence of the Appellant and the documentation provided to me, the value would appear to be between €2,500 and €3,000. These funds were accumulated by the parties for the benefit of their children. They should be so applied. The fund should be encashed forthwith and paid to the Respondent who should pay 25% thereof straightaway to the eldest child (who should have had the benefit of these funds during her third level education but did not) and thereafter 25% of such fund should be provided to each of the three remaining children on their 18th birthday. It is likely that all will be progressing on to third level education or some sort of post Leaving Certificate training and this sum, albeit modest, will assist them with the equipment/materials young adults require at this stage.

23. Having regard to this, I believe that the Respondent should pay to the Appellant the sum of €40,800 in respect of his interest in the family home (having regard to the maintenance arrears due and owing to her) and it should, thereafter, be transferred to her. She is to be responsible for the outstanding mortgage thereon and for any repairs or costs arising relating to the said property. She is to use her best endeavours to have his name removed from the mortgage thereon and there is liberty to apply in this regard. There will be no order for ongoing periodic maintenance for the children and the Respondent shall be responsible for all of the children's outgoings for the duration of their dependencies. Pensions are to be equalised as indicated herein and I will grant liberty to apply should any issues arise in relation to this. The Respondent should have a section 15(1)(a)(i) of the 1996 Act order in her favour upon payment of the sum aforementioned. It is clear from the Affidavit of Means of the Respondent that there should be no delay in such payment and therefore I direct that the sum in question be paid to the Appellant within 8 weeks of the date of this judgment.

24. I will make no order for costs. I do so in circumstances in which the issue of costs and the conduct of the litigation have been taken into account in the ancillary relief orders and the proper provision made herein. I will grant liberty to apply and I will list this matter for mention on the 15th July 2024 at 2 pm in respect of any matters arising from this judgment.