

IN THE SEYCHELLES COURT OF APPEAL

ROCH PILLAY

APPELLANT

versus

ANETTE PILLAY

RESPONDENT

Civil Appeal No: 38 of 1998

[Before: Ayoola, P., Silungwe & Pillay, J.J.A]

Mr. F. Elizabeth for the Appellant
Mr. J. Renaud for the Respondent



JUDGMENT OF THE COURT

(Delivered by Pillay J.A)

This is an appeal against a decision of the Supreme Court which made certain financial provisions and property adjustment orders under Part VI of the Matrimonial Causes Act 1992 in favour of both the appellant and the respondent.

The appellant's grounds of appeal were originally seven in number but at the hearing of the appeal his Counsel dropped five of them.

The remaining grounds of appeal are as follows:-


1. The learned Judge erred in admitting and relying on the evidence of the architect and disregarding the evidence of the quantity surveyor in respect of the market value of the matrimonial home. In the circumstances the learned Judge's conclusion on the value of the matrimonial home, is erroneous, misguided and perverse.


matrimonial home was in a state of disrepair, the trial Court was perfectly entitled to rely on such evidence and value the home at SR330,000. So much for ground 1.


With regard to ground 2, we agree with Counsel on both sides that the learned Judge had erred in making lump sum payments in respect of the two children of the parties, that is Audrey and Randolph, until they reach the age of 21 instead of 18 as (a) the appellant had never agreed to maintain them until they reach the age of 21 and (b) it was premature at this stage for the Court to invoke the proviso mentioned in section 24(3) of the Matrimonial Causes Act 1992 as there was no evidence to the effect that the two children were receiving instructions at an educational establishment or undergoing training or were unable to maintain themselves by reason of illness, infirmity or other special circumstances.

Consequently, the total lump sum amount payable in respect of the two children must be reduced from SR89,000 to SR53,000, i.e. SR21,000 to Audrey and SR32,000 to Randolph, as pointed out by learned Counsel for the appellant and agreed by his colleague on the other side.

We accordingly amend the judgment of the trial Court by ordering that the total lump sum amount payable in respect of the two children should be SR53,000. The appeal is otherwise dismissed.


E.O. AYoola
PRESIDENT


A. M. SILUNGWE
JUSTICE OF APPEAL


A. G. PILLAY
JUSTICE OF APPEAL

Dated at Victoria, Mahe this 6th day of August 1999.