

SUPREME COURT OF SEYCHELLES

Reportable/ Not Reportable / Redact

[2021] SCSC 462

MA290/2018

Arising in DV159/2017

In the matter between

JOHN MAXIME FAURE

(rep. by Serge Rouillon)

Petitioner

and

MARIE-THERESE CHRISTIANNE SINON

(rep. by Nichol Gabriel)

Respondent

And In the matter of a Cross-Petition between

MARIE-THERESE CHRISTIANNE SINON

(rep. by Nichol Gabriel)

Cross-Petitioner

and

JOHN MAXIME FAURE

(rep. by Serge Rouillon)

Cross-Respondent

Neutral Citation: *Faure v Sinon* (MA290/2018) [2021] SCSC 462... (22 June 2021).

Before: Carolus J

Summary: Matrimonial Property Adjustment – Matrimonial Causes Act

Heard: 13 March & 29 October 2020

Delivered: 22 June 2021

ORDER

1. Each party is entitled to a half share of the matrimonial property comprising Title H4328 and the house and all developments thereon amounting to Rupees One Million Six Hundred and Twelve Thousand and Five Hundred (SCR1,612,500). Consequently:
 - (a) The respondent shall pay to the petitioner the sum of Rupees One Million Six Hundred and Twelve Thousand and Five Hundred (SCR1,612,500) representing his share of the matrimonial property within six months of this judgment.

- (b) Upon payment of the said sum to the petitioner, he shall transfer his share in the said property to the respondent.
- (c) In the event that the respondent fails to effect payment as ordered under paragraph 1 the petitioner shall pay her the sum of Rupees One Million Six Hundred and Twelve Thousand and Five Hundred (SCR1,612,500) representing her share of the matrimonial property within the succeeding six months whereupon the respondent shall transfer the property to the petitioner's sole ownership.
- (d) In the event that neither party is able to comply with the foregoing the property shall be sold and the proceeds thereof shared 50:50 between the parties.
2. The petitioner is ordered to pay to the respondent the sum of Seychelles Rupees Seventeen Thousand Five Hundred (SCR17,500) within three months of the date of this judgment as her share in vehicle Registration Number S15720 as per his undertaking.

JUDGMENT

CAROLUS J

The Petition

- [1] The Petitioner and the Respondent in the petition were married on the 9th April 1999. Their marriage was dissolved upon the conditional order of divorce dated 23rd November 2017 being made absolute on 9th February 2018.
- [2] The Petitioner has now petitioned this Court for *"the final division of the parties matrimonial property Title H4328 and the house and improvements made thereon, in particular to declare the parties respective shares in the said matrimonial property"*. His petition is supported by an affidavit sworn by the petitioner dated 29th November 2018, which was later replaced by an "AMENDED AFFIDAVIT IN SUPPORT" dated 11th March 2020, the contents of which are similar to those of the first affidavit except for the addition of three paragraphs (11, 12 and 16) and amendments to paragraph 13.

- [3] The respondent filed an "AFFIDAVIT IN SUPPORT". Although she has not filed a cross-petition, in her affidavit she refers to herself as the respondent in the petition and cross-petitioner in the cross-petition. She opposes the petition and avers that she is entitled to more than half of land title H4328 with the matrimonial home thereon and prays for an order that Title H4328 with the matrimonial home thereon to be transferred in her sole name. In such a case she avers that she is prepared to pay the petitioner the value of his share in the matrimonial property. In the alternative she prays *inter alia* for an order that the petitioner/ cross-respondent pays her the share of the matrimonial home to which she is entitled. The respondent further prays for a share in the business S.A.F. according to her contributions thereto and a half share of the value of Toyota Rush Registration Number S15720.
- [4] Both parties testified at the hearing of the petition. The court also heard two witnesses for the petitioner namely his mother Mrs. Louisianne Hoareau and Mr. Nigel Antoine Roucou a quantity surveyor.

The Evidence

Affidavit of the Petitioner in support of the Petition

- [5] In his affidavit dated 11th March 2020, the petitioner avers that during the course of their marriage the parties acquired Title H4328 which is registered in their joint names and on which their matrimonial home stands. He avers that the purchase of Title H4328 and its development to its current state was mainly carried out by him.
- [6] He avers that he met the respondent around 1995 when he was on holiday in Seychelles. After three years of courting, around 1998/1999 the respondent came to live with him in the UK. The parties lived in a one bed-room flat which the petitioner had purchased for £45,000.00, one year before the respondent came to live with him. Three years later, around 2002, the petitioner sold the flat for £75,000.00. With the profit of £30,000.000 he paid the deposit on a three bed-room house priced at £125,000.00, which he had decided to purchase with the intention of extending the parties' family.
- [7] In October 2003, the parties visited Seychelles and purchased the house on title H4328 for the sum SCR250,000. He borrowed SCR200,000 from his late grandmother and borrowed

the balance on his credit card in the UK. The petitioner avers that the respondent did not contribute any money for the purchase, but as his wife, the parties were living and working as partners. The monies owed were repaid by the petitioner remortgaging his house in the UK, from his salary which had increased by his progression in management and contributions from the respondent.

- [8] The petitioner avers that during the time that repayments were made either for the UK properties or the Seychelles, i.e., his average monthly salary in the UK had been around £2,250.00 to £3,500.00 amounting to approximately SCR52,000.00 whereas the respondent's average salary as a sales assistant in Oxford Street, London, had been £1,050.00 amounting to approximately SCR18,400.00. He further avers that the respondent's contribution consisted in assisting with the expenses associated with the general operation of the household and living expenses of the family. He claims that during this period and at all times the respondent could not contribute much financially to the marriage as she only earned the pay of a shop assistant and had to bear her travelling expenses to get to work and back at the cost of about £300 per month. Furthermore the respondent took two years maternity leave.
- [9] The petitioner avers that around 2004/2005, while the parties were still living in the UK, he financed the construction of a wall around the property in Seychelles, which was built by his parents and which cost approximately SCR250,000. He also purchased solar heating equipment and installations, a security gate from South Africa and air-conditioning units and furniture from the UK of a total value of approximately SCR1,000,000.00.
- [10] He avers that the parties returned to Seychelles in 2012, and from his employment in Seychelles he earned an average monthly salary varying between SCR28,000.00 to SCR50,000.00 while the respondent's average monthly salary varied between SCR5,500.00 to SCR7,000.00. The cost for private schooling of their daughter Samantha Faure was borne by him.
- [11] He avers that the variance in the parties' salaries shows that throughout their relationship, the general running of the home and the expenditure on the matrimonial property was

mainly subsidized by him. Further the house, land, improvements thereto and external structure was valued at SCR3,130,000.00 in January 2017.

- [12] The petitioner also avers that he has been running his own business dealing in blinds, gates and garage doors among other things, for some years now.

Respondent's Affidavit in Reply

- [13] In her affidavit the respondent avers that although title H4328 is in the joint names of the parties, she paid the majority of the price of the property from her own funds obtained from her employment in the Seychelles and in the UK. She denies that the petitioner bore the cost of the purchase and development of the property.

- [14] She admits that when the parties got married they lived in a one-bedroom flat and that the three bed-room house was purchased three years later but can neither deny nor confirm the price at which the flat was purchased. She also avers that it was a joint decision of the parties to sell the flat and purchase a three bed-room house and claims that the purchase of the house was financed by a mortgage obtained from Halifax Bank on the joint application of the parties. She further avers that during their period of residence in the UK, the parties were both earning over £1,500.00 per month and that they maintained a joint bank account into which their salaries, her bonuses and supplementary incomes obtained as a result of loans she borrowed from Halifax, were paid.

- [15] She could neither deny or confirm that the flat was sold at £75,000.00 and that the profit of £30,000.00 was paid as deposit on the new house and put the petitioner to strict proof thereof.

- [16] Although she admits that the parties purchased the house in Seychelles in October 2003, she denies that it was financed by a loan from the petitioner's grandmother and by borrowing on his credit card. She further denies that she did not contribute to the said purchase and avers that she paid the seller over £23,000.00 for the purchase of the property which she withdrew from her account in the UK. She claims that any sum that the petitioner may have borrowed from his grandmother or the purpose for which he borrowed such sum cannot be confirmed or denied and she put him to the strict proof thereof. She avers that she does not know what the money was spent on but denies that it was spent for the

purchase of the matrimonial property. She further avers that he acquired multiple debts in the UK throughout their marriage.

- [17] She denies that the repayment of the loan that the petitioner had borrowed from his grandmother was funded by taking a second mortgage on the house in the UK and from his salary. In fact she denies that a second mortgage was taken at all. She avers that the loan from his grandmother which was used to partly fund the purchase of the house was refunded from monthly sums of SCR8,000.00 obtained for rental of the house. She denies that that she made no contributions and claims that in addition she sent money to Seychelles often to contribute to the maintenance of the house.
- [18] The respondent also denies that the petitioner solely funded the construction of the wall around the property in Seychelles, the purchase of solar equipment, a security gate, air-conditioning units and furniture from the UK averring that he did not have the money to do so. She claims that all substantial purchases for the matrimonial home were funded by proceeds from the rental of the house, joint loans or money obtained from her salary, bonuses and loans she borrowed.
- [19] She admits that the parties moved to Seychelles in 2012 and that the petitioner helped pay for the private schooling for their daughter. She denied that his salary varied between SCR28,000.00 to SCR50,000.00 and avers that she was also employed when they moved to Seychelles.
- [20] She avers that the parties sold their house in the UK for approximately £175,000.00 out of which £105,000.00 was paid to the bank to clear the mortgage and approximately £50,000 was used to clear the petitioner's miscellaneous debts leaving a balance of only £10,000.00. This was used to partly fund the purchase of a Toyota Rush Registration Number S15720 which was registered in the petitioner's name.
- [21] She denies that throughout the relationship of the parties, the petitioner subsidized the general running of the home and the expenses in respect of the house and land. She avers that the petitioner would spend any excess money on himself and other trivial expenses for his own benefit rather than contributing to the household like she did.

- [22] She further stated that she furnished the matrimonial home with her own funds. She averred that her sole purpose during the marriage was to build a more comfortable house and lifestyle and she directed all her funds towards that goal, as seen from the improvements she brought to the petitioner's lifestyle. She was financially able to care for her family's needs and to maintain them. She also paid for all the utility bills while the parties lived in the matrimonial home. Furthermore she did all the household tasks for all family members and gave the petitioner all the love, support and care of a wife during their marriage. She avers that he was greatly dependant on her in that respect. She further avers that the petitioner left the matrimonial home in August 2018 after which she continued maintaining it on her own.
- [23] The respondent also avers that she assisted the petitioner in starting the business S.A.F which sells customised blinds and which operated from their home during its initial stages.
- [24] The respondent therefore claims that she is entitled to more than half of title II4328 with the matrimonial home thereon which should therefore be registered in her sole name. She avers that she is prepared to pay the petitioner any share of the said property that the court finds he is entitled to. She further claims that she is entitled to a half share in the vehicle registration Number S15720 and to a share in the value of S.A.F. She prays for remedies which may be summarised as follows:
- (a) For the Court to declare that she is entitled to a share greater than 50% or alternatively a share of 50% of the matrimonial property and for an order that title H4328 with the matrimonial home thereon be transferred into her sole name.
 - (b) Alternatively that the petitioner pays the respondent, her share of the matrimonial property.
 - (c) To appoint an impartial Quantity Surveyor to value the matrimonial home and property.
 - (d) That the shares in S.A.F. is valued and that the respondent is paid her share in the business according to her contributions.
 - (e) That the respondent is paid half of the value of vehicle registration Number S15720;

(f) Costs

(g) Any orders that the Court deems fit in the circumstances.

Testimony of John Maxime Faure

[25] The petitioner John Maxime Faure is a businessman residing at North East Point Mahe. He married Marie-Therese Christienne Singon on 9th April 1992, and produced a Certificate of Making Conditional Order Absolute dissolving their marriage on 9th February 2018. (Exhibit P1).

[26] He testified that he met the respondent while on holiday in Seychelles about twenty-four years ago although he could not remember the exact date. At the time he was residing in the UK and living in a one bed-room flat which he had purchased for the price of £45,000. He had paid for the flat by means of a loan borrowed from Halifax Bank and mortgaging the flat as security for the loan. His mother Louisianne Faure paid the deposit of around £4,000 for him to obtain the loan since he did not have sufficient money to do so. The respondent did not contribute towards the deposit for the flat.

[27] After the parties met they courted for three years with the petitioner travelling to the Seychelles and the respondent travelling to the UK to see each other, after which the respondent moved from Seychelles to the UK and they lived together in the flat for one year after which they got married.

[28] After moving to the UK, the respondent was initially not permitted to work for a period which he first claimed was of six months to one year but later stated was for about one and a half years. During the time of her unemployment he bore all their expenses including the mortgage repayments. After that the respondent got a job working as a shop assistant with John Lewis for which she earned an average of about £ 1,000 to £ 1,200 per month. The petitioner admitted that since then, the respondent has worked throughout the time that they have lived together. He also stated that although she did not bring any savings with her when she came to the UK, or invest in the properties that he purchased or contribute to the mortgage repayments, she contributed to the expenses of running the household after she started working.

- [29] The petitioner testified that three years after the parties started living together, the petitioner sold the flat for £75,000 and used the profit of £ 30,000 that he had made from the sale to pay a deposit for the purchase of a three-bedroom house in the UK. The respondent did not contribute towards the deposit which was paid solely with the profit from the sale of the flat but the house was owned jointly by them because they were married. The petitioner also made all the monthly mortgage repayments. At the time he was working as a manager and his salary ranged from £ 2,200 to 3,500 per month which afforded them a life of luxury with a new car and holidays. The respondent on her part contributed towards the cost of running the household including paying the bills. The petitioner stated that after deduction of her own expenses, she spent the whole of her earnings on household and family expenses. He stated that she spent money on modernising the home and that they "*were never short of living a comfortable, stable life*". The petitioner described the money that the respondent spent on herself as "*a little, not much*" and stated that she spent a little on clothes and approximately 200 to £ 300 per month for a travel pass to get to work and back.
- [30] When their child was born the respondent was given six months maternity leave and received only $\frac{2}{3}$ of her salary. However after that she did not go back to work until their daughter was about 2 years old. During that time she was only paid $\frac{1}{3}$ of her salary. The petitioner claims that he had to bear the expenses of running the household during that time.
- [31] The petitioner testified that during the course of the marriage he acquired title V4328 in Seychelles in the joint names of the parties. He produced a deed dated 10th October 2003, for the transfer title H4328 from Walter and Rose-Mary Loveday to John Faure and Marie-Therese Faure for a consideration of Rupees Two Hundred and Fifty Thousand (SCR250,000) (Exhibit P2(a)).
- [32] The funds to buy title H4328 were obtained first by re-mortgaging the house in the UK, secondly by a small loan, thirdly by another loan from his grandmother in Seychelles Rupees, and fourthly from a bank account that he held in Seychelles. The property was paid for partly in Seychelles Rupees and partly in foreign currency. The bulk of the funds came from the loan from his grandmother in the approximate sum of SCR150,000 to

SCR200,000. The respondent can *afford* by taking the small loan to "*top up the pounds*" when the house was re-mortgaged. As for the money from his bank account in Seychelles, he explained that prior to meeting the respondent, he used to bring goods from the UK whenever he came to Seychelles, which he gave to his mother and grandmother to sell. The funds on that account were generated from the sale of those goods. He produced a bank statement for Account Number 4193625 in the name of John Maxime Faure held with Barclays Bank in Seychelles showing transactions from Jan 2003 to March 2005 (**Exhibit P2(b)**). It showed *inter alia* the following three withdrawals: "4 SEP 03 TRANSFER CHQ IFO LOVEDAY 122,000.00", "8 OCT 03 K DOMINGUE 29,525.00" and "8 OCT 03 PAYMENT LOVEDAY 20,000.00". He explained that the sum of SCR122,000.00 was paid from his account for the purchase of the property.

- [33] The petitioner described the house in Seychelles at the time they bought it as a "*just a shell*" with "*absolutely nothing in it*". They brought in items from the UK to turn it into a home. They had to put in windows and other things and constructed a garage and a wall around the property. He financed 2/3 of these operations while the other 1/3 was financed by the respondent. He produced a bundle of documents (**Exhibit 3(a)**) comprising an invoice and packing list, bill of lading, receipts issued by the Trades Tax division, and a bill of entry relating to the import of a solar panel into Seychelles. The invoice dated 16th November 2006 is for a total sum of AUD 2,375.00 and issued by Edward's Hot Water in Australia for the export of a solar system to Seychelles, the consignee being Mrs. L. Faure and the "Notify Party" being CTC: Mr. John Faure. The receipt from Trade's Tax is dated 23rd February 2007 and is for the sum of Rupees One Thousand Seven Hundred and Ninety Four (R1,794.00) received from Lysanne Faure. The Bill of entry issued by the Trades Tax Import Division shows that the goods arrived in Seychelles on 21st February 2007 and that tax in the sum of R1,794.00 was paid for them.

- [34] Another bundle of documents was produced as **Item 1** for the import of a security gate from South Africa. Mr. Faure explained that he paid for the imported items by his credit card but they had to be cleared by his mother Louisianne Hoareau upon arrival in Seychelles because he was in the UK, hence her name as the consignee on the documents. She later produced Item 1 as Exhibit 7.

- [35] After purchasing the property in Seychelles, the parties continued living in UK but the petitioner came over every six months to see to the works on the property. His mother was paying for the costs of works on the property and he refunded her upon production of the receipts. He also brought goods over from UK which his mother sold and the proceeds of which went towards construction of the wall around the property.
- [36] The parties returned to live in Seychelles about eight years ago. Initially the petitioner worked with Laxmi Trading for about six months managing the shop and earning a monthly salary of R30,000.00. After that he went to work as a manager for Gondwana which is an umbrella company for other companies including Southern Seas Company Ltd. He was in charge of a landing craft for Southern Seas. He produced a bundle of payslips from Southern Seas Company Ltd showing his earnings from December 2013 to September 2016 (**Exhibit 4**). He stated that his earnings varied between R15,000.00 to R30,000.00 per month as in addition to his basic salary he also earned a commission. He stated that the respondent was consistently earning R6,000.00 to R7,000.00 per month after they returned to Seychelles.
- [37] During the time that he was working with Gondwana he was trying to start his own business and doing some marketing for that purpose. When he was made redundant 2 to 2½ years ago he received a reasonable redundancy package of SCR125,000.00 which he used to start up his business under the name S.A.F. He produced a Certificate of Registration issued on 6th February 2017 certifying the registration of S.A.F. under the Registration of Business Names Act by John Maxime Faure (**Exhibit P5(a)**). He also produced a lease agreement between himself trading as S.A.F. and one Ms Lira Jupiter T/A JUPITER HOUSE for the lease of premises which he stated was for operating his business (**Exhibit P5(b)**). A letter dated 28th March 2017 addressed to Mr. John Faure from the Seychelles Revenue Commission ("SRC") thanking him for registering his business as "Import/Wholesaler/Retailer with the SRC and informing him of his Tax Identification Number, was produced as **Exhibit P5(c)**. In addition to the money from the redundancy package, he also took a loan from the bank for the business using his mother's vehicle as a guarantee.

- [38] The petitioner stated that the respondent did not know anything about the business and had nothing to do with it. It concerned security gates and garage doors and their installation which one needs to have the necessary knowledge to do. At the time he started the business the respondent was and to date still is, working at Ephelia Resort. Although he did include her as a partner in the business at some point with the intention of her eventually leaving her employment to come and work in the business, she never did any work for the business at all. Furthermore the business opened in 2017 when they were already going through a divorce.
- [39] The petitioner testified that he asked Quantity Surveyor Mr. Nigel Roucou to carry out a valuation of the property and draw up a valuation report. He explained that he later asked Mr. Roucou to update the report to include further works on the property performed during the period between the original valuation and the updated one which were funded by the petitioner.
- [40] With regards to vehicle registration number S15720, he stated that it was purchased from the proceeds of sale of another vehicle, which was owned by a UK company which belonged to him and two other partners while he was living in the UK. He sold the UK vehicle and with the proceeds purchased S15720 when he came to Seychelles. He therefore does not understand how the respondent can claim a share in S15720. Further she does not drive and has nothing to do with the vehicle.
- [41] The petitioner admitted that the respondent is entitled to something for her contributions towards their home because it was their home, they built it together and she is the mother of their child, but stated that his contributions to their funds from the time he sold the flat in the UK also have to be taken into account.
- [42] He also testified that although he is not actually living in the matrimonial home his belongings are still there, the goods for his business are still stored there, and he is still paying for certain expenses such as landscaping and painting the house. However he explained that he prefers not to live there to keep the peace for his daughter's sake. He further stated that he merely wants a declaration from the court as to the share of the

matrimonial property to which he is entitled and has no wish for the respondent and his daughter to be evicted from their home.

- [43] In cross examination the petitioner stated that when the parties purchased parcel H4328, the house on the property was just a shell made up of bricks with a roof. A lot of work was also required to flatten the land and build a wall around it. The wall cost a lot of money as it extended around the whole property and was made of stone. The cost also included labour and transportation of materials. They had to send money over from the UK all the time to finance its construction which was mainly from his salary. In addition the money obtained from renting the house also went towards that.
- [44] He reiterated that the funds for the purchase of the property were obtained mainly from mortgaging the house in the UK with the balance being borrowed from his grandmother Mrs. Rose Laurence. Some money was also obtained from his bank account. The petitioner could not remember the exact amount his grandmother loaned him although he recalled that it was a lot of money, but agreed with counsel for the respondent that it would be around SCR200,000.00 as stated at paragraph 8 of his affidavit. He admitted that his grandmother was refunded by money sent from the UK by both the respondent and the petitioner. He assessed the respondent's contribution to the purchase of the property whether by directly contributing to the purchase price or refunding the petitioner's grandmother to be about $\frac{1}{3}$ of the total cost of the property, because his salary has always been triple what she earned. He denied that she took a loan from Halifax on her own and stated that any loans they took were taken by them jointly. He explained that she would not have been able to obtain loans in the amount that they needed with the salary she was earning so the loans were taken by both of them jointly on the basis of their joint earnings.
- [45] The petitioner stated that according to the deed of sale the parties paid Two Hundred and Fifty Thousand Rupees (SCR250,000) for the purchase of the property. However the value of the property was more than that, and they paid the remainder in Great Britain Pounds which they sent from the UK although this is not reflected in the deed of sale or any other document. He produced a receipt dated 24th September 2003 signed by and bearing the stamp of Karen Domingue, attorney-at-law (**Exhibit D1**) according to which the sum of

Rupees One Hundred and Twenty Two Thousand (SCR122,000) was received from Mr and Mrs John Faure being payment of money for Mr and Mrs Walter Loveday for the purchase of parcel 14323. He confirmed that that sum was received by the vendors of the land and explained that the sum on the receipt (SCR122,000) was different from that stated on the transfer deed (SCR250,000) because the balance had been paid in cash. Although he could not state with certainty that two payments were made, he recalls that the payment was partly in Seychelles Rupees and partly in Great Britain Pounds because at the time there was a shortage of foreign exchange in Seychelles. He did not recall if he paid any stamp duty or Notary's fees for the transfer of the property.

- [46] He further confirmed that the sums of Rupees Twenty Nine Thousand Five Hundred and Twenty Five paid to K. Domingue and Rupees Twenty Thousand paid to Loveday respectively as shown in the bank statement (Exhibit P2(b)) reflected payments made towards the purchase of the premises and reiterated that the true value of the premises is not reflected in the title deed. He repeated that part of the purchase price was paid for in Great Britain Pounds and this is not included in the price of Two Hundred and Fifty Thousand stated in the title deed. He agreed with counsel for the defendant that all the payments that he had stated had been made exceeded the sum of Two Hundred and Fifty Thousand. He explained that the transaction dated from twenty years ago when the parties were still residing in the UK and that they did not keep the receipts for each and every payment and that he had documentary proof of only some of his contributions to the transaction. The petitioner stated that in any event the respondent came to the UK with nothing and lived with him in his home. He further confirmed that none of the money that he obtained from the sale of his flat in the UK went directly towards the purchase of the property in Seychelles but went towards the purchase of the three bedroom house in the UK.

- [47] As for the sum of Rupees Twenty Three Thousand which the respondent claims to have paid towards the purchase of the property, he stated that although she could have contributed something it was more likely that any payments were made by the both of them as she was never in a position to be able to make full payment for anything on her own as she did not come to the UK with any funds.

- [48] It was put to the petitioner that contrary to what he averred in his affidavit that when he returned to Seychelles in 2012 he earned a salary of Rupees Twenty Eight to Fifty Thousand, his payslips show otherwise. He stated that the figures are based on his average earnings as sometimes he would earn more and at other times less. Furthermore he earned other income from other things he was doing.
- [49] He stated that he never denied that that the respondent contributed to the household and admitted that the respondent was a good mother to their daughter Samantha whose education he has always and continues to fund. At the moment he pays the respondent Rupees Two Thousand Five Hundred per month for their child.
- [50] He also admitted that when the parties were living in the UK they were both paying for credit card debts incurred in purchasing the house and in the running of their home.
- [51] With regards to the Toyota Rush, he stated that he had an accident while driving it and sold it for Rupees Thirty-Five Thousand and that he is prepared to give her half of that, amounting to Rupees Seventeen Thousand Five Hundred.
- [52] The petitioner stated that the respondent made no contributions to his company S.A.F. The business is located at Jupiter House and is engaged in the sale and installation of blinds, garage doors and awnings which he measures and installs himself. He denies ever having needed to work from home stating that even when he was working with Gondwana he did all work related to his business during his working hours.
- [53] The petitioner stated that he is now living at a friend's house but still contributes to the upkeep of the home. He takes care of the landscaping and prepares fish for the dog. He chooses to stay away to avoid arguments with the respondent.

Testimony of Nigel Antoine Roucou

- [54] Mr. Roucou who resides at Reef Estate, Anse Aux Pins is a qualified quantity surveyor who has given evidence before the Courts of Seychelles in that capacity. He confirmed that he drew up a valuation report dated 9th March 2020 for Mr. John Faure of North East Point after visiting property H4328 on 6th February 2020. He was assisted by Mr. Faure at the site visit and they went round the property including the house and he took measurements

and photographs. He observed that it was a decent house in a nice location. He stated that according to the report, the property H4328 was valued as at March 2020 at Rupees Three Million Two Hundred and Twenty Five Thousand (SCR3,225,000). He produced the report as **Exhibit P6**.

- [55] In cross examination, Mr. Roucou admitted that the respondent was not present at the site visit. He did not enquire about the ownership of the property as he was satisfied that Mr. Faure was the owner thereof by the way he conducted himself at the site visit: he gave the surveyor access to the property and the house, guided him during the visit and explained what he needed to know. For that reason also he made no enquiries about the respondent.
- [56] Mr. Roucou explained the difference in the report at page 4 between (1) the current market value of the property of Rupees Three Million Two Hundred and Twenty Five Thousand (SCR3,225,000) and (2) the replacement cost of the buildings for the main house being One Million and Eighty Eight Thousand and Four Hundred (SCR1,088,400) and the carport of Rupees Three Hundred and Thirty Three Thousand One hundred and Fifty (SCR333,150). He stated that there had been an indication that the house could be mortgaged as security for a loan, and in such cases it is usual for insurance purposes to state such replacement cost hence the reason it appears in the report.
- [57] He stated that in order to come to the current market value of the property, he had compared it to other properties in the neighbourhood. However this is not normally included in the report: the report would normally state that the comparable method was used but the properties used to carry out such comparisons are not specified.
- [58] He clarified that the buildings on the property comprise the main house and garage at the back of the house. He stated that the external structures would include the road, retaining wall, a laundry shed and other stores and little sheds. A breakdown of the value of each item is not usually provided. Loose furniture and fittings and the quantity surveyor's fees are not included in the valuation either.
- [59] Mr. Roucou stated that although he did enquire as to how old the house is and it is contained in his notes he does not recall it now.

Testimony of Louisianne Hoareau

- [60] Mrs. Hoareau, mother of the petitioner is a resident of Bel Air, Mahe. She testified that previously she had been living in England since 1965, but she would travel to Seychelles every year or so. Her son was born in England but the respondent only came to live in England after they met. She has known the respondent for approximately ten years.
- [61] Mrs. Hoareau testified that prior to meeting the respondent, the petitioner lived in a flat in Walthamstow. She stated that she took a loan to obtain money for a deposit for him to be able to purchase the flat. The petitioner subsequently mortgaged the flat. At the time the respondent was still living in Seychelles and working as a cabin crew. The petitioner paid all expenses for the purchase of the flat.
- [62] After the parties moved out of the flat they moved into a house. She does not know how the new house was paid for. Mrs Hoareau further stated that she would not have known of the extent of the respondent's contribution towards the purchase of any assets by the parties while they were in the UK as these concerned them as husband and wife and she did not interfere in such matters.
- [63] Mrs Hoareau stated that the petitioner has always worked but that she does not know how much he earned. When the respondent came to UK she did not work in the beginning.
- [64] The first vehicle that the petitioner purchased was a GT and Mrs. Hoareau was a guarantor for that transaction.
- [65] When Mrs. Hoareau came back to Seychelles she assisted the petitioner in identifying a property for the parties to purchase namely title H4328 and the house thereon at North East Point. The parties then came to Seychelles to proceed with the purchase of the property which was funded partly with money borrowed from her parents which was subsequently repaid although she does not know if the whole sum was repaid in full.
- [66] She and her husband assisted in developing the property while the parties were still in the UK. She explained that when the property was purchased the house was only partly built and they helped to complete the construction thereof. This involved rock breaking and a lot of other hard work. She further stated that she also had to be present when the workers

including electricians were working on the house. Most of her time was spent at the house including Saturdays and Sundays. She did not get paid for the work she did.

[67] The petitioner sometimes sent items in her name for the works on the property such as gates and materials from xpanda. She produced Item 1 as (Exhibit P7) namely a bundle of documents for the import of a security gate from South Africa. The bundle comprised an invoice in the sum of ZAR 17,902.27 dated 13th January 2005 issued by Expanda Security (Pty) Ltd, both the buyer and the "Notify Party" being stated therein as being Mrs. L. Faure. A packing list was also issued by the company and stated to be consigned to John Faure. The bundle comprised a bill of lading, a certificate of origin, a bill of entry and a receipt dated 13th January 2005 issued by the Trades Tax division for the sum of R3,565.00 received from Marie-Anne Louisiane Faure. She also identified Exhibit P3 as the documents for the solar panel which she stated was installed by her and her husband. She stated that she does not know who paid for those materials. She only received them.

[68] After the parties returned to settle in Seychelles the petitioner first worked as a manager at Laxmi Trading. She had heard that the respondent had a job but has no personal knowledge of it.

[69] In cross-examination Mrs Hoareau confirmed that when the respondent first arrived in the UK she was not employed but could not state the exact period for which she was unable to work. She stated that the respondent worked in John Lewis for a while but did not know when she started working there or how much she was earning. She stated that at the time she was on good terms with both parties although they had their ups and downs.

[70] She confirmed that she was living in Seychelles in 2003 when the house in Seychelles was purchased. The parties came to Seychelles and stayed a while before returning to the UK. She and her husband renovated the house with the help of labour. The parties returned to settle in Seychelles after eight to nine years when construction of the house had been completed. The tenants who had been renting the house had broken certain things so that a lot of work had to be done again on the house.

- [71] As for the money borrowed by the petitioner from Mrs. Hoareau's mother she stated that she was not sure of the exact amount that was borrowed and whether it was returned in full or only partly. She is also unaware of a loan of £23,000 borrowed by the parties from Halifax to refund the petitioner's grandmother for the loan.
- [72] She further stated that she does not recall if the petitioner sent any furniture from the UK nor does she recall clearing such furniture.
- [73] Although she does not remember which year the petitioner worked at Laxmi Trading she knows it was after the parties returned to Seychelles. She confirmed that he now runs his own business.
- [74] In re-examination Mrs Hoareau stated that in order to obtain a loan to purchase a house one has to have a deposit of at least 10% of the amount of the loan. In addition the borrower and his or her partner has to disclose their payslips and as well as their employer to the bank. At the time the parties were taking loans the petitioner was working at "Allied" as a manager and the respondent as a shop assistant at John Lewis.

Testimony of Marie-Therese Sinon

- [75] Ms Sinon is fifty years of age and resides at North East Point. She confirmed that she and the petitioner are now divorced. She stated that when the parties met the respondent was working as a cabin crew and living in Seychelles. She then moved to the UK to live with him and they got married after that. Three months after arriving in England she started working at John Lewis.
- [76] She testified that parcel number H4328 and the house thereon is owned by both of them jointly. The property was purchased while they were living in the UK. The vendor wanted to be paid in foreign exchange so they borrowed £23,000 from Halifax Bank for that purpose. However they needed another Rupees One Hundred and Ninety Thousand which the petitioner borrowed from his grandmother and which they refunded from money borrowed from the bank.
- [77] After that the petitioner's mother helped with construction of the house and money was transferred from the UK for that purpose. The respondent stated that she also contributed

towards construction of the house from her salary and a bonus that she received. According to her the salary that the petitioner was receiving at the time was not sufficient for him to obtain a loan which required their combined salaries. At the time she was still working at John Lewis in the UK and the petitioner was employed as a manager with another company in the UK.

- [78] As to whether the petitioner's mother and her husband were paid for their work on the house, she replied that this was between them and the petitioner and she did not like to interfere in such arrangements between mother and son.
- [79] The respondent has one child with the petitioner. She is called Samantha and was born on 25th February 2003 while the parties were still living in England. When they returned to Seychelles she was nine years old.
- [80] The parties returned to Seychelles in June 2012. Since the house had been rented out when they were in the UK some work had to be done on it. Upon their return the respondent worked first for Kreol Or and then at Kankan. The petitioner worked for Laxmi Trading. At the same time the petitioner started his own business which he operated from home. The housework was mostly done by the respondent as the petitioner always claimed that he was too busy. Even if the petitioner claims that he earned a bigger salary, the parties pooled their earnings to buy necessities for the household. While her salary was mostly spent on household expenses, the petitioner spent most of his money gambling. Their child attended private school and the petitioner paid her school fees.
- [81] The loans taken by the parties were repaid while they were still in the UK. The proceeds of the sale of their house in the UK were used to purchase the property in Seychelles. The remainder was used to fix up the house, to buy the Toyota Rush which cost Rupees Two hundred and Twenty Five Thousand and the petitioner also gambled some of it away.
- [82] The respondent confirmed that S.A.F. is the petitioner's business. She stated that the petitioner used to import garage doors and not blinds and claims that it was she who gave him the idea for importing blinds when looking for a supplier on the internet because water poured inside their house whenever it rained. When she informed the petitioner of a

wholesaler who dealt in blinds he said he would contact the manufacturer directly and it was only afterwards that she realised that his company had started dealing in blinds without him even telling her. She was not made part of the company in which the petitioner preferred to include his friends.

- [83] As for the Quantity Surveyor's Report, the respondent was not aware that a valuation was being done in February 2020. She was never notified by Mr. Roucou that he would be coming to the property for that purpose and she only became aware of it when she came to court. With regards to the valuation of the property as per the report she stated that the market value has fluctuated and changed.
- [84] In regards to her averment at paragraph 10 of her affidavit that the petitioner had acquired multiple debts in the UK throughout the marriage of the parties and that she did not know what he spent money on, she stated that the petitioner did a lot of things in hiding that she did not know about. One example is his gambling habit that another person informed her of. She further stated that while some of the money borrowed from his grandmother did go towards the purchase of the matrimonial property she does not know where the rest went.
- [85] As for the petitioner's claim that he spent Rupees One Million on large purchases for the house in Seychelles including the security gate the respondent insists that he could not have spent that much given the size of the house which is only a two bedroom house. The respondent further claims that they both contributed to such purchases. Both of them were working and even if she did not earn a lot she was also contributing to their expenses. They had a mortgage from Halifax for which they were making monthly repayments of £1000. They also needed to purchase groceries, pay their child's school fees and meet other household expenses. Although the petitioner used his credit card to pay for certain items and expenses even that had to be repaid.
- [86] The respondent claims that when she was in UK she contributed to the maintenance of the house in Seychelles. She recalls sending the whole of her bonus payment of £3,000 through one Jeanine Marday who was travelling from Canada to Seychelles to the petitioner's mother for that purpose. At the time the garage was being constructed and they needed the money to buy cement.

- [87] The respondent stated that in addition to more than half of the land comprised in title H4328 she believes that she is entitled to half of the value of the house as she also has a child and they cannot live on the street. Furthermore the child has always lived with her. She stated however that at the moment she does not have money to pay the petitioner his share of the property and that even if she is given time she does not think she will be able to do so. Alternatively she prays that the petitioner pays her the share of the matrimonial property to which she is entitled.
- [88] As for the Toyota Rush of which she is claiming half the value, she stated that when the parties separated it was being driven by the petitioner and that he subsequently sold it without informing her. She only became aware that the jeep had been sold when she saw someone else driving it.
- [89] She is also claiming a share of S.A.F., which she says stands for Samantha Ashley Faure. She bases her claim on the time that she has been married to the petitioner, and states that she deserves a part of the company after all the struggles that they have been through together. She states that other people who do not know about the suffering and difficulties they have endured now want to benefit from the company.
- [90] In cross-examination the respondent admitted that while the parties were living in the UK she worked as a shop assistant and the petitioner as a manager and that he earned more than she did. She admitted that he also earned more than her when they returned to Seychelles. However she justified her claim for a bigger share of the matrimonial property by the fact that she has a child and they need somewhere to live.
- [91] She also admitted that the petitioner had contributed a lot more than she had to their assets but stated that when two people get married they pool their resources together and they should not look at who is earning or contributing more because they are both contributing. It was put to her that her averment at paragraph 4 of her affidavit that she had paid for the majority of land title H4328 from her own funds obtained from her employment in UK and Seychelles, was therefore incorrect, to which she replied that she had paid a part.

- [92] It was also put to her that her averment at paragraph 10 of her affidavit that she had withdrawn the sum of £23,000 from her account for the purchase of the property was incorrect given that the parties had a joint account. She stated that they were married and had to have a joint account.
- [93] It was further pointed out to her that according to paragraph 15 of her affidavit the parties only had £10,000 left over from the proceeds of sale of the house in UK which was used to partly fund the purchase of a Toyota Rush, but that in her testimony she had stated that the proceeds of sale of the house was used to cover the large expenses for the house. She replied that the Toyota Rush cost Rupees Two Hundred and Twenty Five Thousand.
- [94] As to the respondent's contributions to S.A.F., she stated that she was the one who had looked up the blinds (Rolex brand) on the internet and showed it to him. She admitted that the petitioner set up and runs the business himself and carries out its day to day operations but stated that when he was just starting out, he operated the business from home. Further the respondent and their child were always by his side when he had to go and set up everything for road shows. She further denied sending any letters to the effect that she did not have any interest in the company.
- [95] The respondent further admitted that her name does not appear on any of S.A.F.'s company document and explained that the petitioner did all the arrangements himself in hiding. It was put to her that there is no proof that she had anything to do with the company. She explained that there is nothing on record to show the same because the petitioner did not want her to have anything to do with the company but that she believes that she is entitled to share therein after having lived with the petitioner for eighteen years. It was further put to her that she had made zero contribution to S.A.F. which she denied reiterating that it was she and their child who helped him when he had to go on road shows. Furthermore they lived together and while he was running the business, in addition to her own job, she did all the domestic and household work including the cooking and the laundry.
- [96] The respondent maintained that Rupees One Million for the expenses the petitioner claims to have made on the property in Seychelles is too much for that time, even if that were to

include the cost of the solar heating system, security gate, air-conditioning unit and the wall.

[97] She admitted that that £1,000 monthly loan repayments when they were in the UK were paid from the petitioner's account. As for proof that she sent her bonus of £3,000 to Seychelles she stated that she could bring the witness to testify in Court. It was put to her that Mrs. Louisianne Hoareau never mentioned receiving the money which was a substantial sum. She maintained that it was her bonus for working for fifteen years at John Lewis. She further claimed that all her paperwork including those relating to her earnings and bonuses were hidden by the petitioner and she could not have access to them. It was further put to her that £3,000 was far too much to buy cement for a garage. She replied that the money was not used solely for the garage but also for works which was simultaneously being done on the house.

[98] Counsel drew her attention to her statement that the petitioner was responsible for payment to his mother for the works on the house because she did not want to interfere in family matters between them. She admitted that he handled all the money which is to be expected as they were married. Both of them put their earnings together and after deduction of their expenses they sent whatever they could to Seychelles.

[99] The respondent further admitted that the petitioner is paying her a monthly sum of Rupees Two Thousand Five Hundred for their seventeen year old daughter's upkeep and also provides her with pocket money to go to school. He no longer has to pay her school fees as she attends the School of A Levels at Anse Royale. She also admitted that the petitioner cuts the grass around the house but there is still a lot of maintenance work and jobs around the house which is not being done.

[100] As to what exactly she is claiming the respondent stated that she wants her share and her daughter's share in the matrimonial property. According to her she deserves half of the house and her daughter a percentage of the house.

[101] In re-examination the respondent stated that the parties' daughter has no share in S.A.F. The respondent also stated that she is currently living in the matrimonial home. As for the