

IN THE COURT OF APPEAL OF BELIZE, A.D. 2023

CIVIL APPEAL NO. 11 OF 2017

**IN THE MATTER OF an Application by Beverly Shirley Jones pursuant to Section 16 of
the Married Women's Property Act (Cap.176) of the Laws of Belize.**

AND

**IN THE MATTER OF an Application by Beverly Shirley Jones pursuant to Section 148A
of the Supreme Court of Judicature Act (Cap.91) of the Laws of Belize.**

BEVERLY SHIRLEY JONES

APPELLANT

AND

DAVID NEHEMIAH JONES

RESPONDENT

BEFORE:

The Hon. Madam Justice Hafiz Bertram
The Hon. Madam Justice Woodstock Riley
The Hon. Madam Justice Minott-Phillips

President
Justice of Appeal
Justice of Appeal

A Matura for the appellant.
D Vernon for the respondent.

JUDGMENT

22nd June 2022 and 27 January 2023

HAFIZ BERTRAM, P.

[1] I have read in draft the judgment of my learned sister, Woodstock-Riley and I agree with the Order proposed by her and the reasons for doing so.

HAFIZ BERTRAM, P.

WOODSTOCK-RILEY, JA

[2] The Appellant had applied in the High Court for:

1. A Declaration pursuant to Section 148.01 of the Supreme Court of Judicature Act and or Section 16 of Married Women's Property Act, Chapter 176 of the Laws of Belize that the Applicant is entitled to one half share of the properties listed in the First Schedule hereto.

2. A Declaration that Applicant is entitled to one half share of the properties listed in the Second Schedule hereto.

3. An Order that the said properties be sold and the proceeds of sale divided between the parties as the Court may deem just.

4. An order that one half of the amounts standing as credit in all Bank Accounts in the name of the Respondent be paid to the Applicant.

5. An order that the Respondent gives full accounting of all funds that were in Belize Bank(s) as at May 23, 2015.

6. An Order that one half of the proceeds of sale of the property set out in the First Schedule be paid to the Applicant.

7. An Order restraining the Respondent whether by himself, his servants and or agents, from dealing with the said properties, in any manner that would prejudice the interest of the Applicant and from selling, transferring, encumbering or in any way dealing with the said properties until judgment is given in this action.

8. In the alternative, an Order that the properties be settled or transferred equally or equitably between the Applicant and the Respondent.

9. An Order appointing the Registrar of the Supreme Court to execute any documents on behalf of the Respondent for the purpose of effecting an order or declaration made hereunder.

10. Liberty to Applicant to apply for consequential relief, if necessary.

11. Cost.

12. Such further or other relief as to the Honourable Court deems just.

FIRST SCHEDULE

1. *All that piece on parcel of land which is subject of a Deed of Conveyance dated the 30th day of July, 2000 situate Iguana Street, in the Collet Division, Belize City, Belize being described as Lot No. 7028 containing 345.474 square meters in the name of Beverly Shirley Jones.*
2. *All that piece or parcel of land which is subject of Minister's Fiat Grant No. 663 of 2014 dated September 24, 2014 situate East of the Southern Highway, Grant's Work Area, Stann Creek District, Belize bounded and described as shown by plan No.663 of 2014, comprising of 31,274 acres in the name of Beverly Shirley Jones.*
3. *All that piece or parcel of land which is subject of Minister's Fiat Grant No. 181 of 2014 dated May 15, 2014 situate in the Sarawee Farms Layout, Stann Creek District, Belize bounded and described as shown by plan No. 181 of 2004 comprising of 12.873 acres, Block No. 608 in the name of Beverly Shirley Jones.*
4. *All that piece or parcel of land which is subject of Minister's Fiat Grant No. 80 of 2010 situate in the B.D.F. Housing Site, Lord's Bank Village, Belize District, Belize bounded and described as shown by plan no. 80 of 2010 in the name of David Nehemiah Jones.*
5. *All that piece or parcel of land subject of Land Certificate LRS-201311059 being more particularly Registration Section: Queen Square West, Block 45 Parcel 622 comprising of 637.76 S.M. in the name of David Nehemiah Jones.*

SECOND SCHEDULE

1. *Motor vehicle Rav4 2001.*
2. *Motor vehicle Rav 4 2012.*
3. *Belize Bank Account No. 695-2-2-65368.*

[3] By Order of the Court 27th day of April 2017 Her Ladyship Madam Justice Griffith made the following orders:

IT IS ORDERED *that:*

1. *The parties were involved in a common law union before marriage from December, 1992 and having been married from November, 1997 to July 2016 (decree Nisi), the total union and marriage was for 24 years.*
2. *(a) The following properties were acquired during the union and marriage and are subject to sections 148A and 148E of the Supreme Court of Judicature Act, Cap. 91:*
 - (i) 153 Cerros Lane, Lords Bank acquired in the name of David Jones by lease in 1997 and later freehold in the name of David Jones in May, 2010;*
 - (ii) Lot 7028 Iguana Street, Collett Division, Belize City acquired in the name of Beverly Jones in July, 2003;*
 - (iii) Lot 3597 Central American Blvd later registered as parcel 622 Block 45 Queen's Square West Registration Section acquired in the name of David Jones in September, 2013;*
 - (iv) Block 608 being 12.873 acres in Sarawee Farms Layout, Stann Creek acquired in May 2014 in the name of Beverly Jones;*
 - (v) 31.274 acres of land in Grant's Work, Stann Creek acquired in September, 2014 in the name of Beverly Jones;*
 - (vi) Lease of Lot 51 Lords Bank acquired in the name of David Jones in 2015;*
and
 - (vii) 2001 Toyota Rav 4; 2012 Toyota Rav 4.*
- (b) Albeit acquired during the marriage, parcel 622 Block 45 Queen's Square West Registration Section, having been acquired by Inheritance is not matrimonial property and is therefore excluded from application of section 16 of the Married Women's Property Act, Cap. 176 (MWPA) or section 148A of the Supreme Court of Judicature Act, Cap.91; and*
- (c) Belize Bank Account 695-2-2-65368 was not acquired during the union or marriage but is subject to section 16 MWPA.*

3. (a) Pursuant to section 148A of Cap.91, it is hereby DECLARED as follows:
- (i) (1) The Applicant is not entitled to a beneficial interest in 153 Cerros Lane Banks Village. The entire legal and 100% beneficial interest remains vested in the Respondent;
 - (ii) The Applicant holds legal title but holds 100% beneficial ownership in 7028 Iguana Street upon resulting trust for the Respondent;
 - (iii) The Applicant holds legal title and 95% beneficial title in the Grant's Work property but holds the remaining 5% beneficial ownership upon resulting trust for the Respondent;
 - (iv) The Applicant holds legal title and 90% beneficial title in the Sarawee Farms Layout property but hold the remaining 10% upon resulting trust for the Respondent;
 - (v) The Respondent holds 100% beneficial title in lot 51 Lords Bank Village held by leasehold title in the name of David Jones.
 - (vi) The Respondent holds both legal and beneficial ownership of Toyota Rav 4 2001 and Toyota Rav 4 2012.
- (b) Pursuant to section 16 MWPA It is hereby DECLARED that the Respondent holds 100% legal and beneficial ownership in Belize Bank account 695-2-2-55368.
4. Pursuant to section 148A(3), (4) & (5) of Cap. 91, the following ORDERS are found to be just and equitable made regarding the properties listed at paragraph 3(a) herein:
- a) The Applicant is entitled to possession and occupation (rent free) of Lot 153 Cerros Lane, Lords Bank Village for a period of ten (10) years from the date of the Court's judgement;

- b) *The Applicant is awarded 25% beneficial interest in the Iguana Street property upon the value of the property as at the date of the Court's Judgement and:
 - (i) *The Applicant shall transfer legal title to the Iguana Street property to the Respondent; and*
 - (ii) *The Respondent shall pay to the Applicant, in cash the sum representing 25% of the value (at the date of judgment) of the Iguana Street property.**
- c) *The Applicant shall remain vested with the legal ownership of both the Grant's Work and Sarwee Farms Layout Properties and is vested on the Court's Judgment, with the entire beneficial ownership of both properties;*
- d) *The Respondent remains vested with the legal and beneficial ownership of the leasehold of Lot 51 Lords Bank Village.*
- 5. *No order as to maintenance is made as there was no petition for maintenance filed in accordance with Rule 65 of the Matrimonial Rules. The Interim order for maintenance in the sum of \$1,800 monthly, for the benefit of the children of the marriage which was made on the 23rd December 2015 shall remain in force until the decree absolute is filed.*
- 6. *The Applicant is entitled to her legal costs, to be paid by the Respondent in the sum of \$8,000.*

[4] By Notice of Appeal dated 5th May 2017, the Appellant appealed the Order of the Court on the following grounds:

Grounds of Appeal

- i. *That the Learned Trial Judge erred in law in finding that the proceeds of the bank account were not acquired during the union of the marriage, but finding that the bank account was not acquired during the marriage;*
- ii. *That the Learned Trial Judge erred in law in finding that the Applicant was not entitled to a beneficial interest in 153 Cerros Lane, Lords Bank Village, Belize District;*

- iii. *That the Learned Trial Judge erred in law finding that the Applicant was not entitled to a beneficial interest in 7028 Iguana Street, Belize City but instead holds it in resulting trust for the Respondent;*
- iv. *That the Learned Trial Judge erred in law in finding that the Respondent was ... entitled to 5% beneficial interest upon resulting trust from the Applicant in the Grant's Work Property;*
- v. *That the Learned Trial Judge erred in law in finding that the Respondent was ... entitled to 10% beneficial interest upon resulting trust from the Applicant in the Sarawee Farms Layout property;*
- vi. *That the Learned Trial Judge erred in law in finding that the Respondent was ... entitled to 100% beneficial title in lot 51 Lord Bank Village held by leasehold in the name of David Jones;*
- vii. *That the Learned Trial Judge erred in law in finding that the Respondent holds both legal and beneficial ownership of Toyota Rav 2001 and Toyota Rav 2012.*
- viii. *That the Learned Trial Judge erred in law in declaring that the Respondent holds 100% legal and beneficial ownership in Belize Bank account 695-2-2-65368;*
- ix. *That the Learned Trial Judge erred in law in only allowing the Applicant possession and occupation of 153 Carros Lane, Lords Bank Village, Belize District for 10 years rent free;*
- x. *That the Learned Trial Judge erred in law in finding that the Applicant only holds 25% beneficial interest in the Iguana Street property;*
- xi. *That the Learned Trial Judge erred in law in finding that the Respondent remains vested with the legal interest and beneficial ownership of the leasehold of Lot 51 Lord's Bank Village;*
- xii. *That the Learned Trial Judge erred in law in finding that the interim order for maintenance in the sum of 1,800.00 monthly, for the benefit of the account the substantial maintenance of the children of the marriage which was made on the 23rd December 2015 only remains into effect until the decree absolute, as it fails to take into account the substantial maintenance of the children of the marriage and their education needs;*

- xiii. That the trial judge erred in law in not taking into account the extent of the non-monetary contributions of the Applicant to the ability of the Respondent to acquire, any or/and all the properties, bank account savings and earning capacity over the subsistence of the marriage;*
- xiv. The Learned trial judge misdirected herself when in giving judgment made comments adverse to the Applicant and her decision to be a devoted stay at home wife and mother to ensure the progress of the career of the Respondent;*
- xv. The Learned trial judge erred in law and misdirected herself when she failed to take into account the financial and non-financial position the Applicant/Appellant now finds herself at the end of the marriage, having being left without the ability to develop herself career-wise during the subsistence of the marriage.*

[5] The Relief Sought from the Court of Appeal was:

- i. That the Applicant/Appellant be granted a 50% interest in all the properties and monies found to be 100 either or both held as beneficial or legal owner by the Respondent;
- ii. Costs in the Court of Appeal.

Counsel for the Appellant confirmed correction of (i) “That the Applicant/Appellant be granted a 50% interest in all the properties and monies found to be 100% matrimonial property and held as beneficial or legal ownership by the Respondent.”

BACKGROUND

[6] The Appellant and the Respondent were in a common law union from 1992, married in November 1997 separated in 2015 and a decree nisi pronounced in 2016. They have two children, their first child was born on the 18th of March 1997, the second child was born on the 22nd of August 2002;

The Respondent was an officer in the Belize Defence Force (BDF) later becoming Brigadier General and the Appellant throughout the relationship a housewife and homemaker. The Appellant was 18years old at the start of the relationship which lasted 24 years.

[7] The relevant part of *section 16 of the Married Women's Property Act Chapter 176(MWPA)* provides:

“16. (1) In any question between a husband and wife as the title to or possession of property, either party,may apply by summons in a summary way to a judge of the court who may make such order with respect to the application as he thinks fit, or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he thinks fit”

[8] The relevant part of *section 148.08 of the Supreme Court of Judicature Amendment Act (No.8 of 2001) (SCJAA)* states:

148A (1) Notwithstanding anything contained in this Part or in any other law, a husband or wife may during divorce proceedings make application to the court for declaration of his or her title or rights in respect of property acquired by the husband and wife jointly during the subsistence of the marriage, or acquired by either of them during the subsistence of the marriage.

(2) In any proceedings under subsection (1) above, the court may declare the title or rights, if any, that the husband or the wife has in respect of the property.

(3) In addition to making a declaration under subsection (2) above, the court may also in such proceedings make such order as it thinks fit altering the interests and rights of either the husband or the wife in the property, including:- (a) an order for a settlement of some other property in substitution for any interest or right in the property; and (b) an order requiring either the husband or the wife or both of them to make, for the benefit of one of them, such settlement or transfer of property as the court determines.

(4) The court shall not make an order under subsection (3) above unless it is satisfied that, in all the circumstances, it is just and equitable to make the order.

(5) In considering whether it is just and equitable to make an order under subsection (3) above, the court shall take into account the following:

- (a) The financial contribution made directly or indirectly by or on behalf of either the husband or the wife in the acquisition, conservation or improvement of the property, or otherwise in relation to the property;*
- (b) The non-financial contribution made directly or indirectly by or on behalf of either the husband or the wife in the acquisition, conservation or improvement of the property, including any contribution made in the capacity of housewife, homemaker or parent;*
- (c) The effect of any proposed order against the earning capacity of either the husband or the wife;*
- (d) The age and state of health of both the husband and the wife, and the children born from the marriage (if any);*
- (e) The non-financial contribution made by the wife in the role of wife and/or mother and in raising any children born from the marriage (if any);*
- (f) The eligibility of either the husband or the wife to a pension, allowance, gratuity or some other benefit under any law, or under any superannuation scheme, and where applicable, the rate of such pension, allowance, gratuity or benefit as aforesaid;*
- (g) The period when the parties were married and the extent to which such marriage has affected the education, training and development of either of them in whose favour the order will be made;*
- (h) The need to protect the position of a woman, especially a woman who wishes to continue in her role as a mother;*
- (i) Any other fact or circumstances that in the opinion of the court the justice of the case requires to be taken into account.*

[9] There are 15 grounds of appeal and it would be useful to look at those addressing the general position of the law to the facts and the findings with relation to specific assets. An overarching consideration in family law matters of relevance in these proceedings is the principle

of giving consideration and respect to both parties respective contributions to the welfare of the family even if in different spheres.

[10] Bank Account - Grounds (i) & (viii)

i. That the Learned Trial Judge erred in law in finding that the proceeds of the bank account were not acquired during the union of the marriage by find (sic) that the bank account was not acquired during union of the marriage;

viii. That the Learned Trial Judge erred in law in declaring that the Respondent holds 100% legal and beneficial ownership in Belize Bank account 695-2-2-65368;

Bank Account

The Order of the Court was the *“Belize Bank Account 695-2-2-65368 was not acquired during the union or marriage but is subject to section 16MWPA”*. *“Pursuant to section 16 MWPA it is hereby Declared that the Respondent holds 100% legal and beneficial ownership in Belize Bank account 695-2-2-65368.”*

In her oral decision the Judge noted the account was opened even before the parties met and accordingly *“it is the Respondents account”* and *“any question of a beneficial interest has to be center around the issue of joint account”*.

[11] It was clear that the wife’s name was on the account, in what capacity was disputed as she asserts as a joint account holder. The husband asserted that he added the Appellant so she could have access to the account but it was never with the intention of her being a joint account holder.

[12] The Trial Judge focused her finding on *“the account”* existing before the marriage.

“That the account existed before the union and the marriage which takes it outside of 148 and in terms of any beneficial ownership the circumstances are as such that the wife was considered and operated as an authorized user of the account as opposed to a beneficial owner.”

[13] The focus should have been on the proceeds of the account, funds put into the account during the 24 year union and marriage. The fact that the account was physically opened before

the union and marriage does not mean that the proceeds put in during the marriage are not assets to be considered. A bank book was exhibited showing the funds as of 2nd April 2001 at \$13,569.15 and evidence given of its growth. As the Appellant correctly submits money accumulated over the years 2001-2015 represented monies obtained during the marriage. The Respondent's submission was simply that he alone put money in the account. He relied on **Gentle v Gentle** No7 of 2007 unreported SC Belize which can be distinguished in that the wife there was alleging actual contribution to the account and the husband could show the source of those funds and to which the wife made no contribution directly or indirectly. In the instant case I agree with the submission of the Appellant that the funds obtained through the husband's earning during the marriage can be deemed matrimonial property and apart from the issue of whether the wife was a joint account holder it is property that she can seek an alteration of the Respondents' interest in based on s148 factors That the monies earned by the Respondent during their marriage was assisted by the non-financial contribution of the Appellant, the input of the wife to the husband's success and achievements.

[14] The Trial Judge also highlighted the conduct of the wife which was then interpreted to mean she could not "*consider those funds*" hers. Noting the wife only did with the account what her husband told her, that she had to ask her husband "*to withdraw \$10.00 from an account*", that she had a budget of what she could withdraw and stick to that, that '*by the Applicant's own mouth she didn't do anything with this account unless the Respondent told her to*'. While stating "*it is not for me at the court to sit here and judge the rightness and wrongness of what existed in whatever relationship and dynamic as between married persons themselves*", that essentially is what was done. The fact that the wife's conduct may be seen as subservient to her husband in that way was used to determine it could not have been "*joint ownership*". The reality is there could be circumstances in a relationship where one party puts money in an account and still the other controls the use of it.

[15] Here the wife did not put money she "earned" in the literal sense of "earned" but the very essence of the family law provisions recognizes that a party can contribute to the other's ability to earn those funds, to save those funds and therefore can have an interest and is a factor to be considered.

[16] From the evidence it is clear that the wife did contribute significantly to the husband's ability to earn and save, she cared for his parents which would have been a cost and for a period when he was away, she cared for the home and the children, operated the bank account over 23 years facilitating his transactions whilst away. She was frugal, kept to the budget, thereby facilitating the accrual of funds. Those were not essentially facts in dispute. In all the circumstances whether a joint account or not the Appellant did contribute to the husband's ability to accrue the funds in that account, those funds can be considered under section 148 and taking into account the extent of her non-financial contribution over the length of the relationship she should have been entitled to the orders sought, that one half of the amounts standing as credit in that Bank account in the name of the husband be paid to the wife and that the husband give a full accounting of all funds that were in that Bank account as at May 23, 2015.

[17] **Grounds (ii) and (ix) Cerros Lane**

- ii. That the Learned Trial Judge erred in law in finding that the Appellant was not entitled to a beneficial interest in 153 Cerros Lane, Lords Bank Village, Belize District.
- ix. That the Learned Trial Judge erred in law in only allowing the Appellant possession and occupation of 153 Cerros Lane, Lords Bank Village, Belize District for 10 years.

Matrimonial Home

The Trial Judge found that 153 Cerros Lane, Lords Bank was acquired during the union and marriage and was subject to sections 148A and 148 E of the Supreme Court of Judicature Act Cap 91.

That pursuant to section 148A(2) it was declared that the Applicant is not entitled to a beneficial interest in the property. The entire legal and 100% beneficial interest remains vested in the husband. That under the provision for alteration of interest the wife is entitled to possession and occupation rent free for a period of ten (10) years from the date of the court's judgement.

[18] The evidence disclosed this property was accepted by both parties as the matrimonial home. After a determination that the husband was the legal owner the Learned Judge did not go on to alter that interest as she could have to give the wife an interest. *“I make no alteration in relation to that property but I do make an order in relation to possession of that property which is going to entitle the Applicant to remain in those premises; to remain in possession and occupation of those premises in effect for matrimonial home for a period of 10 years. I make that specifically taking into account you need to continue in your role as mother. You are unable to seamlessly enter into the job market, it don’t mean you can’t work, it means that you are unable to enter into the job market at such a level that would allow you the means to actually find appropriate shelter and accommodation for yourself and your children, that is the reason why. Ten years only, not for the rest of your natural life and this is because in relation to both parties there is an age that is still favourable in terms of making a life for oneself... particularly, in that the Respondent is eligible for some income and also has the remaining properties...”*

[19] Even with the finding in terms of a declaration of the husband’s legal interest as the Trial Judge did, it is difficult to accept why there was no alteration of that interest and an order of mere possession made for 10 years. The parties were in a long relationship for 23/24 years, there are two children of the relationship, the Appellant lived with and contributed to the care of the Respondent’s parents while living there and even while the Respondent was overseas, the matrimonial home was built from savings, she and the children moved as necessary with the Respondent, was solely responsible for all the housekeeping, managed the bank account from which household expenses were paid and investments made.

[20] The facts of this case would clearly support that it was just and equitable to order an alteration of interest, under section 148A(3) taking into account the factors set out in section 148A(5). In particular

(b) The nonfinancial contribution made directly or indirectly by or on behalf of either the husband or the wife in the acquisition, conservation or improvement of the property, including any contribution made in the capacity of house wife, homemaker or parent;

(e) The nonfinancial contribution made by the wife in the role of wife and/or mother and in raising any children born from the marriage (if any);

(g) The period when the parties were married and the extent to which such marriage has affected the education, training and development of either of them in whose favour the order will be made;

(h) The need to protect the position of a woman, especially a woman who wishes to continue in her role as a mother.

The provision in the Belize legislation which provides for an interpretation of there being ‘the need to protect a woman’ as separate from the provision of role as mother, and in Barbados, which also follows the Australian legislation, of ‘the need to protect the position of a woman who wishes only to continue her role as a wife and mother’.

Taking all the above factors into consideration I would consider it just and equitable to alter the interest of the husband in the matrimonial home to recognise for the wife a 50% share.

[21] Grounds (iii) and (x) Iguana Street

- iii. That the Learned Trial Judge erred in law in finding that the Appellant was not entitled to a beneficial interest in 7028 Iguana Street, Belize City, but instead holds it in resulting trust for the Respondent;
- x. That the Learned Trial Judge erred in law in finding that the Appellant only holds 25% beneficial interest in the Iguana Street property;

This property was in the name of the Appellant with evidence of its purchase from funds provided by the Respondent and that subsequently the Respondent collected all rents for the property. The Respondent’s contention that the Appellant could not have any interest in the property as no direct contribution was made by her is not accepted and again does not recognize the factors of non-financial contribution. Though in her name, apparently conceding an interest for the Respondent the Appellant submitted the property should be sold and proceeds divided equally between them with a larger portion to her taking into account rent not received. However a determination of the Trial Judge was made on the evidence before her that the property should be sold and the Appellant was entitled to a 25% interest. This would not constitute an error in law or so manifestly wrong that we should disturb. The totality of the decision of the Trial Judge must also be considered in

the context of her orders regarding the other properties and I also consider the further orders this Court will make with regard to the Bank Account and matrimonial home.

[22] Grounds (iv), (v), Grant's Work Property, Sarawee Farms Layout property,

- iv. That the Learned Trial Judge erred in law in finding that the Respondent was ... entitled to 5% beneficial interest upon resulting trust from the Applicant in the Grant's Work Property;
- v. That the Learned Trial Judge erred in law in finding that the Respondent was ... entitled to 10% beneficial interest upon resulting trust from the Applicant in the Sarawee Farms Layout property;

I agree with the Respondent's submission that it is unclear '*what exactly the Appellant is arguing in this ground*' Despite the finding of the Respondent's beneficial interest the Trial Judge ordered that the Appellant shall remain vested with the entire legal ownership of both the Grant Works property (31.274 acres) and Sarawee Farms layout property (12.873 acres). I see no reason or benefit to the Appellant to alter the Judge's orders with respect to these properties.

[23] Grounds (vi) and (xi) Lot 51 Lord Bank Village

- vi. That the Learned Trial Judge erred in law in finding that the Respondent was ... entitled to 100% beneficial title in lot 51 Lord Bank Village held by leasehold in the name of David Jones;
- xi. That the Learned Trial Judge erred in law in finding that the Respondent remains vested with the legal interest and beneficial ownership of the leasehold of Lot 51 Lord's Bank Village;

This property was in the Respondent's name, asserted by him to be for the benefit of the parties' son and purchased after separation. The Appellant was unaware of the property before the Application. No value has been given and in the context of the other orders made there is no support for disturbing the Trial Judge's decision with regard to this property.

[24] Ground (vii) Motor Vehicle

- vii. That the Learned Trial Judge erred in law in finding that the Respondent holds both legal and beneficial ownership of the Toyota Rav 2001 and Toyota Rav 2012.

The Trial Judge ordered the 2001 Rav4 be transferred to the Appellant in good condition and that the 2012 Rav4 remain in the possession of the Respondent. The Appellant acknowledged that both vehicles were in the Respondent's name. She contended that the 2012 vehicle was a gift to her. The Trial Judge did not accept that assertion. The Respondent denied it was a gift and the evidence established that the 2012 Rav4 was bought in 2013 and purchased by the Respondent taking advantage of the discount/exemptions given as a benefit of his position. That the 2001 Rav4 was purchased in 2015 although there was dispute as to its value. From the submissions I do not see the basis for any change to the Judge's order in this regard and again taking into consideration the overall orders.

[25] Ground (xii) Maintenance

- xii. That the Learned Trial Judge erred in law in finding that the interim order for maintenance in the sum of 1,800.00 monthly, for the benefit of the account the substantial maintenance of the children of the marriage which was made on the 23rd December 2015 only remains into effect until the decree absolute, as it fails to take into account the substantial maintenance of the children of the marriage and their education needs;

The Appellant made no submissions on this Ground of Appeal. It is also noted that the Originating Summons filed by the Appellant made no reference to maintenance. There is reference in the Appeal to an interim order for maintenance having been made pursuant to a Summons. As the Trial Judge notes there was no application before her pursuant to and in accordance with Rule 65 which provides the timeframe within which an application should be filed. In the circumstances, there is no basis for this Ground of Appeal

[26] Grounds (xiii), (xiv) and (xv)

- xiii. That the Trial Judge erred in law in not taking into account the extent of the non-monetary contribution of the Applicant to the ability of the Respondent to acquire, any or/and all the properties, bank account savings and earning capacity over the subsistence of the marriage;
- xiv. The Learned Trial Judge misdirected herself when in giving judgement made comments adverse to the Applicant and her decision to be a devoted stay at home wife and mother to ensure the progress of the career of the Respondent;
- xv. The Learned Trial Judge erred in law and misdirected herself when she failed to take into account the financial and nonfinancial position the Applicant/Appellant now finds herself at the end of the marriage, having being left without the ability of develop herself career wise during the subsistence of the marriage.

This is essentially submissions by the Appellant and are factors to consider in support of the decision regarding the Bank account and matrimonial property which have already been addressed. I believe it is useful to point out the importance of there being an equal focus by litigants on the provisions for alteration of interest not solely on the provisions for declarations of legal interest.

[27] Disposal

The Appeal is allowed in part.

Paragraphs 2(c) and 3(b) of the Learned Trial Judge's Order is set aside and the following order is considered just and equitable and made

- 1) The Appellant is entitled to 50% of the proceeds the 695-2-265368 Bank account as at May 23rd 2015 and that the Respondent is to forthwith verify to the Appellant (via a written confirmation from the bank) the amount of the funds that were in the bank account at that date and remit to the Appellant 50% of that amount.
- 2) Paragraph 4(a) of the Learned Trial Judge's order be amended to provide that the Applicant is entitled to possession and occupation (rent free) of Lot 153 Cerros Lane , Lords Bank Village for a period of ten (10) years from the date of the Court's judgment

and the Respondent's interest in the said property is altered so as to vest 50% legal and equitable ownership in the Appellant.

- 3) All other orders of the Trial Judge are affirmed.
- 4) The Appellant is entitled to 50% of her costs in the Appeal to be agreed or assessed.

WOODSTOCK RILEY, JA

MINOTT-PHILLIPS, JA

[28] I have had the privilege of reading the draft of the judgment of my sister, Woodstock Riley, JA. I agree with her decision and reasons and have nothing to add.

MINOTT-PHILLIPS, JA