

THE HIGH COURT
FAMILY COURT

[2012 No. 26 M]

BETWEEN

R.S.

Applicant

AND

T.S.

Respondent

JUDGMENT of Mr. Justice Keane delivered on the 11th April 2014

Introduction

1. In these proceedings, commenced by Special Summons issued on the 22nd June 2012, the applicant husband seeks a decree of judicial separation, together with various ancillary reliefs. In a replying affidavit sworn on the 17th July 2012, the respondent wife also seeks a judicial separation and a number of ancillary reliefs.

Background

2. The parties were married to one another within the State according to the laws of the State on the 6th March 1999. There are two children of the marriage, who are now aged 6 years and 8 years.

3. The husband is a professional person in employment in the city where the parties live and is in his mid-forties. The wife is a homemaker and is a little bit older than the husband.

4. Unhappy differences between the parties came to a head in June 2012, when the wife left the family home for a period with the two children. Each party alleges serious misconduct on the part of the other prior to that date involving alcohol abuse, inappropriate sexual conduct and the use of insulting words and behaviour.

5. It is unnecessary for the Court to adjudicate on those reciprocal allegations of misconduct for the following reasons. First, the parties have been effectively separated since June 2012. Second, from the evidence before it, the Court is satisfied that neither party has abused alcohol since that time. Indeed, each party gave an undertaking to the Court on the 27th June 2012 to refrain from consuming alcohol for a period of five years from that date. Each party undertook to consent to random alcohol testing at least once a month and each has consistently tested negative for alcohol consumption since then. Third, from the contents of the social report procured by the Court pursuant to the terms of section 47 of the Family Law Act 1995, the Court is satisfied that both parties maintain a warm and loving relationship with each of their two children and that each party is a devoted and attentive parent. Fourth, the evidence clearly establishes that the marriage has broken down to the extent that the Court is satisfied in all the circumstances that a normal marital relationship has not existed between the parties for a period of at least one year immediately preceding the date of the present application.

6. In those circumstances, the Court has determined that it is appropriate to grant the decree of judicial separation that each of the parties has sought without regard to the allegation by each party that the other has behaved in such a way that they cannot be expected to live with them. While adultery on the part of the wife was pleaded by the husband as a discrete ground upon which the relevant relief was sought, that ground was not pursued at trial and it is important to note that there is no evidence whatsoever before the Court in support of any such assertion.

Custody and access

7. On consent between the parties, on the 27th June 2012 the Court made an interim Order containing, amongst others, the following terms:

(a) That the parties were to have joint custody of their two children.

(b) That the children were to have their primary residence with, and were to be in the primary care and control of, the wife in the family home.

(c) That the husband was to vacate the family home.

(d) That, by way of access, the children were to reside with the husband on two weekends in every four and for one weekend night (alternating between Friday and Saturday night) on one further weekend in four, with the children to remain with the wife throughout the remaining weekend in four.

(e) That, further by way of access, the children were to reside with the husband from after school each Wednesday until the beginning of school each Thursday.

8. The husband now rents a house in the same area in which the family home is located. His evidence is that he has deliberately done so, and has taken a job with flexible working hours, to facilitate him in fully sharing parenting responsibility for the parties' two children. The husband contends that it would be in the children's best interests if they were to spend equal amounts of time with each of their parents. The husband suggests that one way in which this could be achieved is if the children spent alternate weeks with each parent.

9. The wife believes that it would be best for the children if their father had less contact with them than he currently does under the interim access arrangements described above. The wife bases this belief on the allegation that the husband seeks to influence the children against her. The husband denies that allegation.

10. The Court gave directions by order for the purpose of procuring a social report on the appropriate custody and access arrangements in respect of the parties' children, pursuant to the provisions of section 47 of the Family Law Act 1995. A report dated the 4th June 2013 by Mr M, clinical psychologist, was furnished to the parties and was received in evidence. Mr M subsequently attended Court as a witness and was examined on behalf of each of the parties.

11. In his report, Mr M describes his interviews with each of the parties alone; with each of the parties together with the children; and with the older child alone. The younger child did not wish to be interviewed alone and Mr M felt that it was appropriate to respect that wish. When asked what he would like to do, the older child stated "he would want to live with his mum for two days and with his dad for two days."

12. In the relevant part of that portion of his report headed "Conclusions", Mr M states:

"While spending equal time with each parent can work for children following marital separation it requires a high level of co-operation and mutual respect between the separating parents and this is clearly not the case here. In my professional opinion it would be in the best interests of the children emotionally and psychologically if they were to continue living with their mother and have access with their father every second weekend from the end of school on Friday until the start of school on Monday morning and every Wednesday from the end of school until the start of school on Thursday morning."

13. Mr M was closely questioned concerning the basis upon which he had arrived at that opinion. Specifically, he was first asked to explain the nature and significance of the connection that he posited between the level of co-operation and mutual respect between the parents, on the one hand, and the apportionment of custody and access, on the other hand. Mr M suggested that where children recognise that "messages of disrespect" are passing between their parents, it creates stress for those children to spend equal amounts of time with each parent. It was put to Mr M that, while it is plainly regrettable that "messages of disrespect" should ever pass between parents, the level of stress caused to children who recognise them is unlikely to differ whatever the apportionment of time spent with each parent.

14. Mr M stated that the important thing from a child's point of view is regularity and predictability in the relevant parenting arrangements. It was put to Mr M that the equal apportionment of custody between parents is just as capable of being regular and predictable as an arrangement apportioning custody primarily in favour of one parent.

15. Mr M then stated that, in a situation where there are high levels of conflict between parents, it is better for the children to live with one parent and have regular and predictable access with the other parent than for custody to be equally apportioned between the parents. When asked why that was so, Mr M stated that it was because the potential for conflict was thereby reduced. Mr M was asked why an unequal division of custody reduced the potential for conflict when compared to an equal division of custody. Mr M returned to the importance of a high level of respect between parents and of predictability and regularity in the parenting arrangements affecting children.

16. Mr M was specifically asked if what he was getting at (although it was not stated in his report) was that, in his opinion, one parent – the husband – was showing a greater level of disrespect to the other. Mr M did not accept that suggestion.

17. Mr M went on to state that he felt that it was preferable that children should be subject to a single set of rules and should experience a single view of the world for the majority of the time

18. Mr M stated that he had not formed the view that a high level of disrespect was being demonstrated as between the parents but rather that there were high levels of distrust and a high level of conflict between the parents, which he did not think should be played out in front of the children on a one-week on and one-week off basis.

19. Mr M accepted that the optimal arrangement concerning the custody of children whose parents have separated – if there is agreement between them concerning how the children should be managed; if each parent is supportive of the children's positive relationship with the other parent; and if the parents are able to keep the levels of conflict in their own relationship separate from their relationship with their children – is an equal division of custody. But Mr M then reiterated his view that, where that is not the situation, it is much better for children to live with one parent and have regular and predictable access with the other, because the conflict is not then being played out on a week on/week off basis. Mr M did not explain how it was preferable that conflict should be played out on one week-night each week and on alternate weekends (*i.e.* when Mr M suggests the husband should have access), rather than that it should be played out in respect of access shared equally on a week on/week off basis.

20. When asked on what basis he was suggesting that children would be exposed to the conflict between their parents for a lesser period of time if parental access was just as regular but unequally divided, Mr M stated that there was no conflict when the children were staying with one parent unless the other parent was interfering. It remained entirely unclear how the division of the period of time spent with one parent or another was in any way connected with the level of interference by the non-custodial parent, unless it was being suggested that one parent was more likely to interfere than the other – and Mr M was clear that that was not his view.

21. Mr M was requested to address the proposal that the children would spend alternate weeks with each parent. That would, of course, provide regularity and predictability and there is no suggestion that it could not provide stability. In this context, Mr M made reference to the undesirability of the children being exposed to different expectations and different rules in two different households, as opposed to a single set of rules and expectations in a single household. However, since even Mr M's recommended custody arrangement involves the children being exposed to the rules and expectations of two households, spending one night a week and two weekends a month in the husband's household and the remainder of the time in the wife's household, it is difficult to see how this consideration militates in favour of Mr M's recommended arrangement and against an equal division of custody.

22. In response to a question put to him by the wife's Counsel, Mr M suggested that an equal division of custody would mean the children shuttling (or yo-yoing, as he put it) more frequently between parents, the obvious implication being that this is plainly undesirable. However, Mr M appeared to acknowledge subsequently that his suggested custody arrangement would entail more frequent movement between households than the alternative proposal that the children spend alternate weeks with each parent.

23. Mr M accepted that he was aware of no research in support of his position that an equal apportionment of custody was likely to be more stressful for the children than the arrangement he was proposing. He ultimately stated that his proposal was based on

experience rather than on logic, and that he was not aware of any other professional in his field who would recommend an equal division of custody in the circumstances presented.

24. When Mr M was asked why, in light of his view that in situations of high conflict between parents it is better for children to live primarily with one parent, he had concluded that the parent with whom the children in this case should live primarily was the wife and not the husband, Mr M identified three grounds for that conclusion.

25. The first ground is that the arrangement Mr M proposes is very similar to - though slightly more restrictive of the husband's access than - the interim custody and access arrangements agreed between the parties pending the trial of the action. Mr M emphasised the importance, in his view, of maintaining the *status quo*, explaining that he would not wish to interfere with the existing custody and access arrangements without good reason. The difficulty with that proposition is that it confuses arrangements entered into between the parties on what was clearly understood (and expressed) to be an interim basis with the *status quo ante*. The children in this case were in the custody of both parents in a single household before the events that precipitated the present action occurred; meaning that the *status quo ante* was that custody was equally shared. If it were accepted that interim custody arrangements should generally or presumptively become permanent custody arrangements, then interim arrangements would tend to operate to change the *status quo*, rather than to maintain it pending the trial of an action, and interim applications would then very often predetermine the outcome of subsequent trials.

26. The second ground relates to the significance of the breadwinner. Mr M said that, in general, he would not recommend a custody arrangement that could disrupt the family income. However, Mr M accepted that, in this case, the husband's hours of employment are sufficiently flexible to allow him to avail of equal custody without affecting his income, so that the husband's status as breadwinner is not a relevant factor here.

27. The third ground invoked by Mr M as a reason for awarding primary care and control of the children to the wife is the proposition that mothers are more important in the lives of young children than fathers. However, Mr M accepted that there is considerable debate concerning whether that is, in fact, correct. The Court did not have the benefit of any evidence on the point.

28. In *J. McD. V. P.L.* [2010] 2 I.R. 199, the Supreme Court considered the weight to be attributed to expert reports commissioned pursuant to s. 47 of the Family Law Act 1995 (at p. 242 *et seq.*). In general terms, the Supreme Court concluded that the ordinary rules of evidence governing expert reports generally apply equally to expert reports commissioned under s. 47. A s. 47 report should not be accorded undue weight. A court is not obliged to accept the views of an expert appointed pursuant to s. 47, nor is it required to specify the reasons for non-acceptance of the views expressed in a s. 47 report. The Court is the ultimate decision maker and it is for the Court and the Court alone to determine, in accordance with the law, what is in the best interests of the child. As Murray C.J. expressed the position (at p. 245): "A trial judge must be free, for stated reasons, to depart in his or her findings from evidence contained in such a report either because there is other more persuasive evidence or because he or she is not sufficiently persuaded by the report as to a particular fact or conclusion in it."

29. In this case, I am not persuaded by Mr M's conclusion that, although both parties have a loving relationship with the children and although both are attentive and dedicated parents, the children should reside primarily with the wife and the husband should henceforth have access to them that is even more limited than that which he enjoys under the interim access arrangements agreed between the parties.

30. The Court's reasons for rejecting that conclusion are as follows. First, the older child has expressed the wish that he should spend equal time with each of the parties. Second, where there are high levels of conflict and low levels of mutual trust between parents, as appears to be the position in this case, there is no logical connection that the Court can identify between that fact and any need to divide custody of the children unequally, rather than equally, between the parents. Third, there is no logical basis that the Court can identify for the proposition that the equal division of custody between parents on alternate weeks provides less regularity and predictability of access for the children concerned than an arrangement whereby primary custody of the children is awarded to one parent and the other is given limited access to the children.

31. Fourth, as far as the Court is aware, there is no basis for the suggestion that an equal division of custody will provide less stability for the children in this case than granting primary custody to the wife and limited access to the husband. The husband has acquired a home in the same area as the existing family home in order to ensure that there will be no disruption to the children's school or social activities when they are in his care.

32. Fifth, in connection with Mr M's assertion that he knows of no professional in his field who would recommend an equal division of custody in the circumstances presented, the decision of Herbert J. in *D McA v K McA*, unreported (High Court), 17th December 2002, is instructive. In that case, the level of conflict between the parties was especially intense, as the wife had alleged that the husband had sexually abused each of the parties' three young children, which allegation was found to be untrue and to have been made entirely without foundation. This resulted in an intractable problem between the parties that was considered beyond any hope of remedy or therapy by counselling, as the parties had developed a deep-seated distrust of each other and of each other's motives.

33. A consultant psychiatrist carried out a social report under s. 47 of the Family Law Act 1995. The consultant psychiatrist considered that it was important as far as possible for each parent to have an equal amount of time with, and an equal input into the lives of, the children, sharing as equally as possible in the children's leisure and non-leisure periods, although it was also important that access arrangements in respect of the children must be on the basis of the least possible contact between the parties. The psychiatrist recommended that each parent should have access from post-school, or in vacation periods from 14.30 hours, on Friday to just prior to that time on the following Friday. It seems to me that, for the reasons I have given, a similar arrangement is appropriate in this case.

34. The Court will grant the parties joint custody of the children of the marriage, as they have agreed, and will direct that access should be shared equally between them on a one-week on/one-week off basis. The Court will hear submissions on the appropriate form of Order to take account of hand-over arrangements, holiday periods and any other consequential matters that may arise.

35. I accept Mr M's evidence that the children are, at present, dealing well with the psychological and emotional consequences of their parent's marriage breakdown, such that they do not require counselling. In the circumstances, it is inappropriate to make any form of Order in that regard.

The family home

36. The parties adduced conflicting evidence from different auctioneers concerning the value of the family home. That property was purchased for €1.04 million in 2007 and is held in joint names. On behalf of the wife it was asserted that the property is worth

€430,000; on behalf of the husband it was contended that the property is worth €550,000. The wife's auctioneer primarily applied a valuation method whereby he looked at certain houses in the area that had been purchased at broadly the same time as the parties acquired their family home and which had recently been sold. He looked at the percentage fall in value in respect of those properties and then applied that percentage reduction (of between 56% and 69%) to the original purchase price of the parties' home. The husband's auctioneer relied on the sale prices recently achieved by what he considered broadly comparable properties in the same general area. That auctioneer suggested that property prices have been rising in the area and that a comparable, though smaller house (without a block built extension) in the same estate had recently sold for €500,000, as recorded on the Property Price Register. The wife's auctioneer disagreed, contending that the comparator properties identified by the husband's auctioneer were better properties and that, for example, the property in the same estate that had recently sold for €500,000, though smaller (in not having an extension), was better situated (in aspect and seclusion) and better finished. Having considered that evidence very carefully, the Court has come to the conclusion that €500,000 is a reasonable value to attribute to the family home.

Other assets

37. There is some measure of agreement between the parties concerning the remainder of the pool of assets and income available to them.

38. The parties own two investment properties. The first is an apartment with an agreed value of approximately €300,000 and an outstanding mortgage of very approximately €150,000, representing an equity (the Court has been informed) of very approximately €150,000. The second is a house with an agreed value of €225,000 that is owned without encumbrance. Each of these two properties attracts a net monthly rental slightly in excess of €900.

39. There are various investment and savings accounts held in the name of the husband with a very approximate current market value in the region of €1,063,000. There is a single investment fund held in the name of the wife with an approximate current market value in the region of €41,000.

40. Accordingly, the overall pool of assets available to the parties (and including the family home) has an approximate value of €1,987,000.

Proper Provision

41. I now propose to consider the appropriate orders to ensure that proper provision is made for each spouse concerned and for their two children, having regard to all of the circumstances of the case. In doing so, I will address each of the specific matters that I am required to consider, pursuant to the terms of section 16 of the Family Law Act 1995 in turn:

(a) the income, earning capacity, property and other financial resources which each of the spouses concerned has or is likely to have in the foreseeable future

The husband is in receipt of an annual gross salary of €58,121.96, which works out at a monthly net salary of €3,157.56. He is contracted in his present employment to this year but is confident of another contract. He has done a Master's degree in his particular field but does not intend to do a doctorate as that would require giving up work in order to engage in full time study. It was suggested to the husband on behalf of the wife that he could obtain more lucrative employment in his field and that he has deliberately depressed his own income for the purpose of these proceedings. The husband insisted that incomes in his profession have declined in recent years, in common with those in many other sectors of the economy, and that he has selected his present employment in significant part because of the greater flexibility it offers him to be involved in the upbringing of his children.

The wife worked as a manager in a particular service industry before her engagement to the husband. After her marriage she worked in a business owned by her husband and, subsequently, in similar or related businesses for a couple of years, before becoming a full time mother and homemaker after the birth of the parties' children. The wife indicated in evidence that she has recently begun to make inquiries about possible job opportunities and that she proposes to actively seek employment at the conclusion of these proceedings. Such employment is unlikely to be very highly remunerated and her hours will have to take account of her childcare obligations.

The two investment properties owned by the parties bring in a net monthly income of just over €900 each. The property assets of the parties have already been described.

(b) the financial needs, obligations and responsibilities which each of the spouses has or is likely to have in the foreseeable future (whether in the case of the remarriage of the spouse or otherwise)

There is no suggestion on the evidence presented that either party is involved in another relationship. The wife proposes to remain resident in the family home and the husband, who currently rents a house in the same general area, proposes to purchase a home of his own there, in order to provide as much predictability, regularity and stability as possible for the parties' children when he has access with them.

(c) the standard of living enjoyed by the family concerned before the proceedings were instituted or before the spouses separated, as the case may be

The parties enjoyed a comfortable standard of living before they separated. However, as Finlay C.J., speaking for the Supreme Court in *R.H. v. N.H.* [1986] I.L.R.M. 352 (at 354-5), observed:

"The court...must first have regard to the somewhat pathetic fact that upon the separation of a husband and wife and, particularly a husband and wife with children, it is inevitable that all the parties will suffer a significant diminution in the overall standard of living. The necessity for two separate residences to be maintained and two separate households to be provided for makes this an inescapable conclusion."

(d) the age of each of the spouses and the length of time during which the spouses lived together

The spouses are each in their mid to late forties and appear to have lived together for approximately fourteen years.

(e) any physical or mental disability of either of the spouses

No such issue arises in this case.

(f) the contributions which each of the spouses has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other spouse and any contribution made by either of them by looking after the home or caring for the family

Before the parties' marriage, the wife worked as a manager in a particular service industry where she was earning approximately €20,000 per annum until she left that employment in or about 1998. After the parties became engaged, the husband acquired a business associated with his own profession in conjunction with a partner and with the benefit of a loan from his father, and the wife worked in a non-professional capacity with him in that business. There was some conflict in evidence concerning the extent of the role played by the wife in that enterprise; the husband contended that the wife's role was limited in scope and hours, the wife asserted that her involvement was so extensive that the business was in effect a joint venture. The Court is satisfied that the wife made a very significant contribution to the operation of that business. The business was sold at a significant profit in 2001. The wife worked for a couple of years afterwards in a similar role for other employers and then, with the arrival of the parties' children, became a full time mother and homemaker. In that regard, the Court is satisfied that the wife made a very significant contribution to the welfare of the family by looking after the home and caring for the family.

The husband subsequently began a manufacturing concern with a number of partners. He was involved in it for approximately two years before selling his interest in it at a significant profit. The proceeds of the sale of that interest, and of the earlier business, are reflected in the substantial investments now held by the husband.

The husband is paying interim maintenance to the wife of €1,500 per month.

The husband has made an interim contribution to his wife's legal costs of €30,000.

g) the effect on the earning capacity of each of the spouses of the marital responsibilities assumed by each during the period when they lived together and, in particular, the degree to which the future earning capacity of a spouse is impaired by reason of that spouse having relinquished or foregone the opportunity of remunerative activity in order to look after the home or care for the family

At the point when the parties separated, the wife had been out of the workforce for a period of approximately seven years due to her role as a full time mother and homemaker.

(h) any income or benefits to which either of the spouses is entitled by or under statute

The wife is in receipt of €280 per month by way of Children's Allowance.

(i) the conduct of each of the spouses, if that conduct is such that in the opinion of the court it would in all the circumstances of the case be unjust to disregard it

While allegations of misconduct were made by each party against the other, I do not believe that it was contended on behalf of either party that any such allegation amounted to conduct that it would be unjust to disregard for the purpose of considering proper provision. The Court has concluded that no conduct has been made out against either party of sufficient egregiousness to engage this provision.

(j) the accommodation needs of either of the spouses

There appears to be agreement between the parties that the wife should continue to reside in the family home and it is common case that the husband, who currently rents a home in the same general area, wishes to purchase a property there.

(k) the value to each of the spouses of any benefit (for example, a benefit under a pension scheme) which by reason of the decree of judicial separation concerned that spouse will forfeit the opportunity or possibility of acquiring

The husband has two private pension policies: one with an estimated value of €18,158 and another with an estimated value of €18,756.96. The husband is also the beneficiary of an institutional superannuation scheme with his present employer.

(l) the rights of any person other than the spouses but including a person to whom either spouse is remarried

Neither party has identified any such person, nor is it evident to the Court that the rights of any other person, apart from the parties' two children, are affected by the proceedings.

Conclusion

42. The husband proposes the following by way of proper provision, on the assumption that there will be not merely joint custody, but equal custody, of the children:

(a) That the family home be transferred into the wife's name.

(b) That the husband discharge the mortgage on the more valuable investment property from the assets available to him and that the property be transferred into the wife's name.

(c) That the husband continue to pay maintenance of €1,500 in anticipation of the wife obtaining employment to supplement her income.

(d) That the husband pay the wife a further lump sum of €100,000.

(e) That the wife retain the investment fund in her name with an approximate current market value in the region of €41,000.

(f) The wife to retain the €30,000 interim contribution the husband has made towards her legal costs.

By the rough calculation the Court has made, this entails the division of the pool of assets available to the parties in the approximate ratio 55/45 between the husband and wife.

43. The wife contends that the following represents proper provision (albeit in significant part in reliance on the proposition that she should be awarded primary care and control of the children with the husband to be afforded limited access to them):

(a) That the family home and contents be transferred into the wife's name.

(b) That the husband discharge the mortgage on the more valuable investment property from the assets available to him and that both investment properties be transferred into the wife's name. The wife would envisage selling those two investment properties and investing in a single investment property in the area in which she lives, which she hopes will generate a gross rental income of €1,200 per month.

(c) That the maintenance payable by the husband should increase to €2,000 *per* month, net of tax.

(d) That one third of the remaining pool of assets be transferred to the wife.

(e) That the wife retain the investment fund in her name with an approximate current market value in the region of €41,000.

(f) That one of the two pension policies in the name of the husband be transferred to the wife.

By a similar rough calculation the Court has made, the wife's proposal entails the division of the pool of assets available to the parties in the approximate ratio 65/35 between the wife and husband.

44. I propose to make an Order broadly in terms of the husband's proposal, rather than the wife's, save that I propose to direct that one of the husband's two pension policies be transferred to the wife, as the wife has requested. The Court is disposed to make a section 13 preservation order in respect of the husband's institutional superannuation scheme.

45. I understand that the parties agree that the appropriate orders should be made under sections 14 and 15A(10) of the Family Law Act 1995 and the Court will therefore make them.

46. On the question of maintenance, I propose to follow the approach stipulated by Finlay C.J. in *R.H. v. N.H.* *supra*, whereby I must first have regard to the overriding consideration that there will henceforth be two households rather than one. Next, I must ascertain the minimum reasonable requirements of the wife and of the children whose care she will share equally from now on. Then I must ascertain the income earned or capable of being earned by the wife, apart from the maintenance provided by the husband. Next I must consider the husband's net income and lastly, I must ascertain the reasonable living expenses of the husband, bearing in mind the diminished circumstances of the two households, but leaving the husband with a reasonable standard of living.

47. The wife has sworn that her current monthly outgoings are €4,053 in respect of a household in which she had anticipated remaining the primary caregiver for the children. Allowing for the fact that the custody will be equally shared between two households and that some diminution in living standards is inevitable in respect of both, regrettably it is by no means certain that such expenditure can be maintained. The wife has indicated that she proposes to seek employment at the conclusion of these proceedings and the husband's responsibility for equally sharing in the custody of the parties' children will provide the wife with greater scope to do so. The wife was earning €20,000 *per annum* in the late 1990s and it does not seem unreasonable to expect that she should be able to earn a comparable income in the future. The wife will have the income generated by the investment property that is being transferred to her. The husband's net monthly income is €3,157.56. He asserts that his current monthly outgoings are €6,934.23, but he too will have to cut his coat according to his cloth. In light of these considerations, the Court will order that the husband continue to pay the wife €1,500 *per* month by way of maintenance.

48. The Court would be disposed to make an Order directing that the parties speak only positively of one another in the presence of the children and that neither of them discuss any aspect of this litigation with the children, if the Court could be persuaded that such an Order would serve any practical purpose, in circumstances where, while constructive and civilised behaviour is no less than would be expected of any parent, it is difficult to see how such an Order could be effectively policed.

49. The Court will hear any submissions the parties may wish to make on the form of Order appropriate to reflect the findings of the Court set out above.