Neutral Citation Number: [2025] EWFC 171 (B)

Case No. 1700-2183-9706-8700

IN THE FAMILY COURT SITTING AT EDMONTON

BETWEEN:

PZ
Applicant

-and-

ZD
Respondent

PZ v ZD (Financial Remedies: Needs: Adverse Inferences: Taking of Evidence from Outside the Jurisdiction)

MR T BRAITHWAITE appeared for the applicant

MS F RAMZAN appeared for the respondent

JUDGMENT OF DEPUTY DISTRICT JUDGE GWYNFOR EVANS

Hearing 19 – 20 March 2025
Judgment handed down *ex tempore* on 20 March 2025

References to entities, names and addresses have been anonymised in this judgment.

Contents

Introduction

1. This is my judgment in case number 1700-2183-9706-8700. I start this *ex tempore* judgment at 4.18 PM following a two-day final hearing because it is preferable that the parties know where they stand as soon as possible.

2. Both parties have been represented very ably by barristers at this final hearing; Mr Braithwaite for the wife and Ms Ramzan for the husband. Each barrister has said everything that could be said on the part of their client in support of their case. I am very grateful for the way in which both counsel have prepared for the case, and in which they have approached the matters in dispute.

3. I will in the course of this judgment set out some preliminary matters, consider the relevant case-law, and make required findings with respect to quantification of the assets. I will then address the relevant factors in section 25 of the Matrimonial Causes Act 1973 with respect to distribution.

Background

4. The parties in the case are the applicant, PZ, who I shall refer to as "the wife". She was born [in 1992] and she is aged 33. The respondent is ZD, who I shall refer to as "the husband". He was born [in 1985] and he is aged 39. No disrespect is intended to either party in referring to them as "wife" and "husband", and I adopt that terminology for ease of reference and clarity in this judgment.

5. The parties cohabited and married from the same date, [x] April 2014, and they separated on [x] November 2022. This is a medium-length marriage of some 8 ½ years. The wife's petition for divorce is dated [x] January 2023 and the date of the conditional order is [x] November 2023.

6. The wife's form A was issued on [x] November 2023.

7. There are three children of the marriage, namely XQD, a girl, born in the USA [in] …2015, and now aged 9, and two younger children, both born in England, namely GZD, a girl, born [in] … 2016, and now aged 8, and MQD, a boy, born [in] … 2021, and now aged 4. XQD and GZD attend PS Primary School. XQD is in Year 5 and GZD is in Year 3. MQD attends DC Day Care on four afternoons each week.

8. Although the parties married and lived originally in Pakistan, there is a dispute as to where in Pakistan that was. The husband says in his s 25 narrative statement that upon their marriage they lived for 8 years "in [his] father's luxury home in Lahore, and … were funded by [his] father throughout". The wife says on her form E that upon marriage the parties lived with the wife's family for around 5 years, before coming to live in a property [SKR] in [Redacted County in England] from August 2020 until November 2022. The wife's family live in a village, forgive me if I do not pronounce it correctly, but [ZJT] in Pakistan. I am told by the husband it is a remote village. I do not know where precisely it is but in any event it is not Lahore. So there is a dispute of fact in that respect.

9. The wife's case is that the parties lived briefly in the property Apartment B, [West London] ("Apartment B"), legal title to which has at all material times been held in the name of the husband, from September 2016 to November 2016. According to HM Land Registry documentation this ninth-floor flat was purchased on [a date in] 2007 for £360,000 with the aid of a mortgage from [Mortgage Company]. This is significant because the property has been subject to a repossession order. The order was made by District Judge Parker in proceedings with claim number [CLAIM NO. REDACTED] on 29 November 2023. The purchase of Apartment B was registered on [x] June 2007. There are assertions made as to its ownership and I shall make a finding as to the beneficial, or "real" ownership of that property in due course.

Beneficial Ownership of Apartment B

10. The dispute about the ownership of Apartment B, which was briefly lived in by the parties and which was the subject of possession proceedings, is relatively easily resolved, because each party contends that it is in fact beneficially (i.e. "really") owned entirely by the husband's father, Mr HF. I say that because there is a written agreement that is signed on [x+1] June 2007 which is the day after the purchase of the property was registered, and this document in my judgment sets out the agreement between the husband and his father as to who really owns the property. The document says: -

> "It is agreed between Mr HF [and he gives his address] (the father) and [the husband] [he also gives the same address] (the son) that the father … shall have an equitable interest in the property [full address of Apartment B]"

11. The document says, erroneously, that it was purchased on [x] June 2007, but, nonetheless, that is when the purchase was registered, so that is a common misunderstanding by the parties to the document. The agreement records that Apartment B

> "was purchased in the name of the son [full name]" (i.e. the husband)

12. and that:-

> "[t]he deposit towards the purchase as well as all other related cost [sic], amounting of [sic] around £60,000 has been paid by the father".

13. It continues:-

> "The father [full name] shall be making the mortgage repayments and be responsible for any other outgoing/maintenance and related costs concerning the property. In return he shall also enjoy all benefits from the property, be it financial or otherwise, including but not limited to rental income, equity and rights of decision-making in relation to the said property."

14. I pause there. The equity in the property is clearly understood as between the son and his father to belong to the father. The husband said in his evidence that the property was purchased when he was a student for him to live in but it did not belong to him. The document recording the agreement continues,

> "It is agreed between the father and the son that the son, [full name] shall not make any claims in relation to the said property, neither in the rental income nor in the equity as a result of rise in property value, or any other financial rights [sic]. If at any point, the father requires the son to transfer the legal title in the father's name, the son shall not decline such request. The father shall bear all costs relating to the transfer or sale of the property. Both parties sign this Agreement in full conscience and knowledge [sic] without any influence."

15. It is then signed by the husband's father and by the husband, their names being typed with a "wet" signature underneath and it is said it is witnessed by WWK of an address which I cannot quite read, but which appears to say "[Redacted unreadable part address]" and that is dated the same date.

16. I consider that that document meets the requirements of section 53 of the Law of Property Act 1925 so as to dispose of the equitable interest of the husband to his father and it is done with the full agreement of both of them, in any event. That disposition could have been carried out even if Mr HF had not been party to it.

17. Therefore, I make my first finding in this case, which I think is agreed anyway, which is that that the property belongs to the father, Mr HF, or at least belonged to him prior to its repossession, and furthermore that the liabilities that were secured on it are liabilities of the beneficial owner, which is Mr HF, and insofar as there are legal liabilities of the

husband I will deal with that later on in the judgment at paragraphs [141] to [145] and at [171] (findings).

The substantive financial remedy application

18. Many issues have been raised in this case which I have well in mind and have taken fully into account, but I propose to deal only with those which seem to me to be the most relevant and significant as to the outcome. Where I have broken this judgment down into segments, this is essentially for convenience and that has not prevented me from considering the case in the round.

19. In short, this is an application made by the wife for various orders, they being lump sum, property adjustment, settlement / transfer of property orders for the benefit of the children, periodical payments and pension-sharing.

Litigation chronology

20. A Notice of First Appointment was sent out on 6 December 2023 notifying the parties that they must, by 20 February 2024, send to the court their respective forms E giving details of their property and income. Standard directions were given, providing that the first appointment would be heard at the Family Court at the Royal Courts of Justice on 26 March 2024 at 2pm.

21. District Judge Ashworth heard the case after hearing Mr Braithwaite of counsel (who continues to represent the wife today) and after hearing Ms Hakim, the husband's solicitor.

22. At that hearing various amendments were made to the parties' questionnaires and standard directions were made for the provision of mortgage raising capacity and housing evidence in the form of property particulars. Further directions were made for the respondent to provide any documentation he holds relating to the repossession of Apartment B. There was provision for the wife to submit a statement dealing with conduct although she subsequently elected not to do so. The court directed the provision of updated property valuations and for the listing on 3 July 2024 of a financial dispute resolution appointment ("FDR appointment") with a time estimate of one hour here in

Edmonton. There were various other ancillary directions with which I need not trouble the reader of this judgment.

23. The hearing on 3 July 2024, which was supposed to be the FDR appointment, took place before District Judge Cohen at this court, the husband having prior to the hearing filed an application *inter alia* to extend the time for provision of his replies to questionnaire, and for permission to attend remotely, relying upon a short letter dated 2 May 2024 from a Dr Q, M.B.B.S, D.P.H, MSc. (UK), Medical Superintendent of University of Lahore Teaching Hospital which in terms stated that the husband had been "advised to stay in Pakistan for long term management and frequent follow up visits as recommended by his Consultant" and that "[a]t present he is not physically and mentally fit to travel and to perform any exertive activity". Each party was represented by counsel who continue to represent them today.

24. District Judge Cohen's order records at recital 7 that it was not effective as an FDR appointment. The husband was ordered to pay the wife's costs of and relating to the hearing because of an absence of disclosure and what would appear to be his failure to comply with the direction requiring him to provide information with respect to the repossession of Apartment B (reflected in further directions in District Judge Cohen's order). The husband's form E, dated 15 February 2024, had not had attached to it certain bank statements, and an order requiring provision of the same, and provision of statements going back to 1 November 2021 was made, with a penal notice attached it.

25. Furthermore, the husband was required to provide written authority to the wife's solicitors enabling them to send a letter to the mortgage company who had provided the mortgage for Apartment B and requiring them to communicate directly with the wife's solicitors so as to enable provision of such information as they may require. A penal notice was also attached to that paragraph.

26. Various other directions were made and the case was listed for an adjourned FDR appointment on the first available date after 25 September 2024.

27. That took place in November before Deputy District Judge Welch on 4 November 2024, the parties having the same representation. Unfortunately, the parties were not able to reach agreement, and so directions were made setting this down for a hearing yesterday and today with a time estimate of two days, not to be before Deputy District Judge Welch,

as he was the judge at the FDR appointment and would, of course, have had sight of "without prejudice" material.

28. On 22 November 2024, a Notice of Final Hearing was sent out and on 23 December 2024 a third-party disclosure order was made by the FDR judge, aimed at obtaining information from a company named [Anon Money Xfer Co.], located in E1 and registered at Companies House under company number [REDACTED Co.No.3]. There was a second third-party disclosure order made, directed at a company names K_AnonCo who are K_AnonCo Ltd registered at Companies House under company number [REDACTED Co.No.4]. The detail of each such order need not trouble the reader of this judgment.

29. That led to the provision of some of the documents which appear in today's bundle. Firstly it led to a 'DocuSigned' short single-page letter to Wilsons Solicitors LLP from [QCJR] that was in response to the third-party disclosure order directed at K_AnonCo. [QCJR] responded on 28 January 2025 stating,

30. "We have reviewed all our records and confirm [that] we do not have any records of any customer profile by name of [the husband]"

31. The next document, a landscape-format single-page list of various transactions, is the result of the third-party disclosure order directed at [Anon Money Xfer Co.].

32. I have set out that procedural background because of the way that the wife presents her case today.

Legal framework

33. I have in mind the very helpful summary of the law which I have to apply, as set out in paragraph [21] of the decision of Peel J, dated 22 March 2022, in ***WC v HC (Financial Remedies Agreements) (Rev 1)*** [2022] 2 FLR 1110 ("***WC v HC***"). This passage is a very helpful passage which can help explain to the parties as well as to their legal representatives what the court is actually doing at this hearing today.

34. Paragraph [21], under the heading "The Law" sets out the general law which I apply.

"[21] The general law which I apply is as follows: -

i)As a matter of practice, the court will usually embark on a two-stage exercise, (i) computation and (ii) distribution; ***Charman v Charman (No 4)*** *[2007] EWCA Civ 503, [2007] 1 FLR 1246..*

ii) The objective of the court is to achieve an outcome which ought to be 'as fair as possible in all the circumstances'; per Lord Nicholls of Birkenhead in ***White v White*** *[2001] 1 AC 596, [2000] 2 FLR 981, at 599 and 983H respectively. .*

iii) There is no place for discrimination between husband and wife and their respective roles; ***White v White*** *at [2001] 1 AC 596, [2000] 2 FLR 981, at 605 and 989C respectively.*

iv) In an evaluation of fairness, the court is required to have regard to the s25 criteria, first consideration being given to any child of the family.

v) S25A of the Matrimonial Causes Act 1973 (MCA 1973) is a powerful encouragement towards a clean break, as explained by Baroness Hale of Richmond in ***Miller v Miller; McFarlane v McFarlane*** *[2006] UKHL 24, [2006] 2 AC 618, [2006] 1 FLR 1186, at para [133] ("****Miller; McFarlane****").*

vi) The three essential principles at play are needs, compensation and sharing: ***Miller; McFarlane.***

vii) In practice, compensation is a very rare creature indeed. Since ***Miller; McFarlane*** *it has only been applied in one first instance reported case at a final hearing of financial remedies [... ...]"*

[The detail of that case need not trouble us here]

viii) "Where the result suggested by the needs principle is an award greater than the result suggested by the sharing principle, the former shall in principle prevail. ***Charman v Charman (No 4)***

ix) In the vast majority of cases the enquiry will begin and end with the parties' needs. It is only in those cases where there is a surplus of assets over needs that the sharing principle is engaged.

x) Pursuant to the sharing principle, (i) the parties ordinarily are entitled to an equal division of the marital assets and (ii) non-marital assets are ordinarily to be retained by the party to whom they belong absent good reason to the contrary: ***Scatliffe v Scatliffe*** *[2016] UKPC 36, [2017] AC 93, [2017] 2 FLR 933, at para [25]. In practice, needs will generally be the only justification for a spouse pursuing a claim against non-marital assets. [...]*

xi) The evaluation by the court of the demarcation between marital and non-martial assets is not always easy. It must be carried out with a degree of particularity or generality appropriate in each case: ***Hart v Hart*** *[2017] EWCA Civ 1306, [2018] 2 WLR 509, [2018] 1 FLR 1283.[...]*

xii) Needs are an elastic concept. They cannot be looked at in isolation. In ***Charman v Charman (No 4)*** *[2007] EWCA Civ 503, [2007] 1 FLR 1246, at para [70] the court said:*

> *'The principle of need requires consideration of the financial needs, obligations and responsibilities of the parties (section 25(2)(b); of the standard of living enjoyed by the family before the breakdown of the marriage (section 25(2)(c); of the age of each party (section 25(2)(d); and of any physical or mental disability of either of them (section 25(2)(e).'"*

35. There is then a reference in Peel J's judgment in ***WC v HC*** to the ***Family Justice Council Guidance on Financial Needs on Divorce*** (from April 2018) which stated that:-

"[27] in an appropriate case, typically a long marriage, and subject to sufficient financial resources being available, courts have taken the view that the lifestyle (ie 'standard of living') the couple had together should be reflected, as far as possible, in the sort of level of income and housing each should have as a single person afterwards. So too it is generally accepted that it is not appropriate for the divorce to entail a sudden and dramatic disparity in the parties' lifestyle."

36. Peel J continues in ***WC v HC***: -

*xiv) In [**Miller; McFarlane**] at para [138], Baroness Hale of Richmond referred to setting needs 'at a level as close as possible to the standard of living which they enjoyed*

during the marriage'. A number of other cases have endorsed the utility of setting the standard of living as a benchmark which is relevant to the assessment of needs: for example, ***G v G (Financial Remedies: Short Marriage: Trust Assets)*** *[2012] EWHC 167 (Fam), [2012] 2 FLR 48 and* ***BD v FD (Financial Remedies: Needs)*** *[2016] EWHC 594 (Fam), [2017] 1 FLR 1420.*

xv) That said, the standard of living is not an immutable guide. Each case is fact-specific. As Mostyn J said in ***FF v KF*** *[2017] EWHC 1093 (Fam), [2017] All ER (D) 94 (May), at para [18]:*

'the main drivers in the discretionary exercise are the scale of the payer's wealth, the length of the marriage, the applicant's age and health, and the standard of living, although the latter factor cannot be allowed to dominate the exercise."

37. Finally, at (xvi) Peel J states:-

xvi) "I would add that the source of the wealth is also relevant to needs. If it is substantially non-marital, then in my judgment it would be unfair not to weigh that factor in the balance. Mostyn J made a similar observation in ***N v F (Financial Orders: Pre-Acquired Wealth)*** *[2011] EWHC 586 (Fam), [2011] 2 FLR 533, at paras [17]–[19]"*

38. I have foreshortened some of that, omitting with "[...]" extracts that are not relevant in this 'needs' case.

39. I am required to have regard to section 25 of the Matrimonial Causes Act 1923 and that says, at section 25(1):-

"It shall be the duty of the court in deciding whether to exercise its powers under sections 23, 24, 24A, 24B or 24E above and, if so, in what manner, to have regard to all the circumstances of the case, first consideration being given to the welfare while a minor of any child of the family who has not attained the age of 18."

40. Therefore, I must give in this case first consideration to the three children of this marriage.

41. Section 25(2) MCA 1973 sets out the matters to which I am required to have regard and I bear those in mind in full, and will refer to them in the course of my judgment below as appropriate.

S 25(2)(a) Property and Other Financial Resources

42. I am first going to set about addressing some of the factual disputes that require resolution in the substantive financial remedy application.

43. The first one is, what are the assets in this case?

44. I was provided with an ES2, which I have myself have distilled into a rather simpler affair.

45. **Property**: Given my finding with respect to Apartment B, there is no real property belonging to either party.

46. **Bank accounts and other investments**: as for the parties' respective bank accounts, the wife's case originally was that the husband had, in his Andromeda Bank in Pakistan, a figure of £62,350. In the course of the evidence given during this hearing, the wife's position has changed and that is a figure of £47,700, although I caveat that by saying that I do not have a piece of paper with that number on it – that is subject to my making findings in this judgment.

47. The wife's bank account balances are not in dispute: the total is £121.

48. There is a dispute as to the husband having the proceeds of sale of a Land Rover Cruiser, which would be £10,000 if I find that that is the case. The wife has a Renault Scenic car, which effectively has scrap value of £252.

49. **Liabilities**: The parties' respective liabilities are in issue.

50. ***Husband's liabilities:*** -

    50.1. The husband's case is that he has a liability of £112,922, that being the effect of a repossession order to which I have made reference already with respect to the property, Apartment B, and the mortgage that was secured thereon, the property

being in negative equity. I will return to that. The wife says that that is a 'nil' liability.

50.2. The wife says that the husband has liabilities of £6,639 and that those consist of a Moorcroft Debt Recovery Limited liability of £5,751 [SB 279] and a Capital One liability of £888 [SB 280].

50.3. The husband contends that he has those liabilities plus other liabilities, so he says that he has also: -

50.3.1. a [Redacted Property Management Co.] liability of £2,658, which is associated with service charges and the like at number Apartment B, and

further liabilities:-

50.3.2. to family members, pre-dating 2022, totalling £42,781;

50.3.3. to a Mr N, a friend of the husband's father, of £13,699; and

50.3.4. to his father for expenses including the flat deposit and legal fees, which he puts at £140,000, in which is included a sum of £60,000, which is the deposit for Apartment B.

50.4. The husband's total for the liabilities set out at paragraph [50.3] above is therefore (£207,128).

51. I am going to have to make finding with respect to the husband's liabilities at 50 above because they are all disputed.

52. The husband also says for the avoidance of doubt that the sum on the Capital One card is not £888, but is in fact £1,000 in debt, and that the Moorcroft Debt Recovery Limited figure is not £5,751, as evidenced at SB279, but is in fact £7,000.

53. Wife's liabilities: -

54. The wife has liabilities which the parties agree which comprise a Barclaycard debt of £337 and a Legal Aid Agency statutory charge of £12,644, the total of which is £12,981.

55. In summary, then, the husband's case is that overall he simply has liabilities of £112,922 plus £207,128, i.e. £320,060.

56. The wife's case is that the husband has a credit balance of £51,061, that being

56.1. his aforementioned £47,700 alleged bank balance, about which I am going to have to make a finding, and

56.2. the Land Rover of £10,000,

minus

56.3. his liabilities of £6,639.

57. Added up, the wife's overall assets are therefore the agreed debit sum of (£12,608). W, however, also has a small NEST pension with CE £724.

S 25(2)(a) Parties' Incomes and Earnings Capacities

58. The party's incomes are in dispute.

59. ***Wife's Income:*** The wife's net income may be dealt with in relatively short form. It includes her net salary of £9,287 pa and is broadly agreed to be just over £46,000 when sums received by way of universal credit (just over £33,000) and child benefit (just under £3,000) are added to her salary. The husband says it is slightly higher because of the way he has factored in the calculations on pay slips, but for my purposes, it is £46,000, and that is my finding on the wife's income.

60. ***Husband's income:*** The husband says his income is nil. The wife says that the husband's annual gross income is: -

60.1. £199,335, a figure supported by a spreadsheet analysis of Mr Braithwaite, in which credits in the calendar year 2022, paid into the husband's then Natwest, Lloyds and Barclays accounts have been grouped under the headings "Cash", "Pluto" and "Jupiter"; plus

60.2. other sums of £92,801, to which I shall return.

60.3. So the wife's case, at its highest, stresses Mr Braithwaite, is that the husband's gross income is £292,136, and that is before tax.

61. Included in those income figures, so breaking down what the wife says the husband's income is, there is money, in 2022, from Pluto Service Station of £130,546, from Jupiter Service Station of £6,150, together with cash deposits of £62,639 (the £199,335) plus, of course the other £92,801 to which I shall return.

62. I am conscious that those are gross figures, and I am also conscious of Ms. Ramzan's contention that they're a bit inchoate in terms of the time period covered.

The husband's application to give evidence remotely, from outside the jurisdiction

63. I had to make a judgment at the outset of these proceedings as to whether I would accede to an application made on c. 7 March 2025 (that is the date on the copy of the application notice provided in the court bundle), for the husband to give evidence remotely, from Pakistan.

64. That application had come before DJ Ashworth in box-work on 11 March 2025, and had been directed to be listed to be heard alongside this final hearing on 19 March 2025, with the usual provision for the parties to apply to set aside or vary such an order made in their absence.

65. Each party addressed the application in their skeleton arguments. The application itself simply requested remote attendance and stated that "the respondent is currently living in Pakistan due to medical reasons and has been advised to remain in Pakistan. The Medical letter has been enclosed". That was a reference to a second letter of Dr Q, M.B.B.S, D.P.H, MSc. (UK), Medical Superintendent of University of Lahore Teaching Hospital, which was dated 19 February 2025 and headed "to whom it may concern" and which stated that: -

> "It is certified that [the husband], Age 38 years suffering from Anxiety and Aerophobia. He has been examined for follow up treatments at the University of Lahore Teaching Hospital. He is advised to stay in Pakistan for long term management and frequent follow-up visits. He also needs close supervision of one attendant. It is advised that he has to avoid air travelling, stress related activities since his recovery".

66. The husband's position was summarised by Ms Ramzan as follows: -

"[the husband] is in Pakistan and cannot travel due to medical reasons, namely anxiety and aerophobia, and H's long-term plans are also to remain in Pakistan. The H has submitted medical evidence that corroborates his medical conditions previously" (with a page reference to the earlier 2 May 2024 of Dr Q letter summarised at paragraph [23] of this judgment) "and more recent medical evidence dated 25th of February 2025 is included as part of his application D11" (i.e. the 19 February 2025 letter set out in full at paragraph [65] of this judgment).

67. The wife opposed the application, Mr Braithwaite stating on her behalf that it was made c. one week before the final hearing, and that the husband had in fact at the FDR appointment in November 2024 volunteered to attend in person. Furthermore, the husband did not appear to have sought the proper permission to appear remotely from the Pakistani central authority, and the court was being presented with a *fait accompli*, with the Court having either to accede to the husband's application, or render this hearing ineffective.

68. Paragraph [17.1] of Practice Direction 22A states "Guidance on the use of video conferencing in the family courts is set out at Annex 3 to this practice direction."

69. Annex 3 of Practice Direction 22A is entitled "Video Conferencing Guidance" and it says at paragraph [1]:-

"This guidance is for the use of video conferencing (VCF) in proceedings to which the Family Procedure Rules apply. It is in part based, with permission, upon the protocol of the Federal Court of Australia. It is intended to provide a guide to all persons involved in the use of VCF, although it does not attempt to cover all the practical questions which might arise. Any reference in this guide to a judge is to be taken as including any judge of the family court"

70. The guidance states at Annex 3, paragraph [3] that (on the one hand): -

"VCF may be a convenient way of dealing with any part of proceedings- it can involve considerable savings in time and cost. Its use for the taking of evidence from overseas witnesses will, in particular, be likely to achieve a material saving of costs, and such savings may also be achieved by its use for taking domestic evidence. It is, however, inevitably not as ideal as having the witness physically present in court. Its convenience

should not therefore be allowed to dictate its use. A judgment must be made in every case in which the use of VCF is being considered not only as to whether it will achieve an overall cost saving but as to whether its use will be likely to be beneficial to the efficient, fair and economic disposal of the litigation. In particular, it needs to be recognised that the degree of control a court can exercise over a witness at the remote site is or may be more limited than it can exercise over a witness physically before it."

71. and (on the other hand) at paragraph [5] (on the other hand) that: -

"It should not be presumed that all foreign governments are willing to allow their nationals or others within their jurisdiction to be examined before a court in England or Wales by means of VCF. If there is any doubt about this, enquiries should be directed to the Foreign and Commonwealth Office (International Legal Matters Unit, Consular Division) with a view to ensuring that the country from which the evidence is to be taken raises no objection to it at diplomatic level. The party who is directed to be responsible for arranging the VCF (see paragraph 8) will be required to make all necessary inquiries about this well in advance of the VCF and must be able to inform the court what those inquiries were and of their outcome."

72. Mr Braithwaite had in his skeleton argument drawn the court's attention to paragraph [5] of Annex 3, as set out above. He also submitted that:-

72.1. liaison with the Foreign and Commonwealth Office was required, via an email address to which requests are to be made (TOE.Enquiries@fcdo.gov.uk);

72.2. there is a published list of countries with whom the United Kingdom has standing arrangements which is to be found on the gov.uk website under the heading "Taking and Giving Evidence by Video Link from Abroad" (https://www.gov.uk/guidance/taking-and-giving-evidence-by-video-link-from-abroad#p) and the entry on the gov.uk website for Pakistan states: -

"Pakistan

We have not been able to obtain the agreement of the Government of Pakistan to our request to allow individuals in Pakistan to voluntarily give evidence from Pakistan by video link in UK civil, commercial or administrative tribunals (either

as a witness or when appealing a case). Requests can be submitted on a case by case basis but the FCDO are unable to confirm whether a response will be received. Where there is no response, this is not to be interpreted as permission to proceed with the taking of video evidence."

72.3. Pakistan is neither a signatory to, nor a connected party to, the "Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters".

72.4. the Court should satisfy itself that no diplomatic difficulties arise if the hearing proceeds and if H's evidence is undertaken without reference to the relevant judicial/central authority in Pakistan, particularly in light of the position with respect to Pakistan set out on the gov.uk website (above).

72.5. further issues of a non-diplomatic nature also arise from attending this court from abroad.

72.5.1. the privacy warning in respect of the hearing itself is very difficult to enforce as contempt of court will not bite if the contemnor is abroad.

72.5.2. dealing with private financial matters of the parties is confidential to the family court (absent any order permitting its publication), but again the enforcement of this is difficult where a litigant is not present in the jurisdiction – especially when they have their home abroad.

73. I called both counsel in at the start of the first day of this final hearing and I asked for an update on this matter. I drew counsel's attention to my article published on the Financial Remedies Journal Blog on 15 September 2022 entitled "***Zooming In: Video Evidence from Outside the Jurisdiction***" and to the possibility set out therein with respect to emailing the Taking of Evidence Unit at the Foreign and Commonwealth Office.

74. I made enquiries at 09:26 am to one of the FRC Leadership Judges, setting out in a short second email that my brief research online indicated that there was not in fact a standing agreement with Pakistan with respect to the taking of evidence. Conscious of the pressure of time, and as I had not yet received a response by 9:49am, I sent an email directly to the Taking of Evidence Unit at the Foreign, Commonwealth & Development Office, copying in the FRC Leadership.

75. Shortly before 10am, I received a response from the FRC Leadership, drawing my attention to informal guidance from the FRC Leadership Judges that there is no need in family cases to seek prior authorisation unless there is clear evidence that the giving of evidence from abroad may expose the witness to risk of prosecution or similar serious consequences in that country.

76. Accordingly, I invited both counsel to make submissions as to whether or not I should adjourn.

77. I was informed by counsel that the husband was present at court (i.e. in England) for the first appointment on 6 March 2024 before District Judge Ashworth and also for the adjourned FDR that took place before Deputy District Judge Welch on 4 November 2024. The respondent husband's position at the FDR appointment in November 2024 was that he would attend this final hearing in person. When he had not attended previous hearings in person, he had been abroad and he had been available on the end of the phone and, crucially, he had been represented by a solicitor and a barrister in the jurisdiction.

78. As Mr Braithwaite pointed out, the husband's application was somewhat of a *fait accompli* because it had been listed to be dealt with on the morning of the first day of this hearing.

79. I should add that the court staff in Edmonton had very helpfully set up a very large video screen with a camera so that remote attendance by the husband was, subject to whatever decision I were to reach, in fact possible.

80. I heard the application and I gave a short judgment, which I will not set out in its entirety here, but the essence of my judgment was that the court's resources are scarce and it was in fact the case that both parties would have had to have come back to court for an adjourned final hearing if the application were to be refused. That seemed to me to be in the interests of neither party if the final hearing could in fact progress today.

81. I considered:-

    81.1. the overriding objective (FPR 2010 rule 1.1(1)) to deal with cases justly, having regard to any welfare issues involved; and

81.2. in particular rule 1.1(2)(a) ensuring that a case is dealt with expeditiously and fairly, 1.1(2) (d) saving expense; and 1.1(2) (e) allotting to the case an appropriate share of the court's resources, whilst taking into account the need to allot resources to other cases. The parties would have lost the two days that were in the diary and that would have been a waste of court resources (including for other litigants competing for the same court availability).

81.3. Further, my active case management powers include, inter alia, the duties set out at rules:-

1.4(2) (a) setting timetables or otherwise controlling the progress of the case;

1.4(2) (c) deciding promptly … …(ii) the procedure to be followed in the case;

1.4(2)(k) dealing with the case without the parties needing to attend at court;

1.4(2)(l) making use of technology; and

1.4(2)(m) giving directions to ensure that the case proceeds quickly and efficiently.

82. Considering the above, I was persuaded on the morning of the first day to accede to the request to hear the husband's evidence remotely.

83. As for the points of principle raised in Annex 3 to PD22A, I acceded to the guidance from the FRC Leadership Judges.

84. Had I known that it would be something that would cause such a considerable amount of delay, I might have thought twice, as what ultimately happened was that the hearing was repeatedly interrupted on occasions too numerous to mention, by either a power cut or some form of broadband failure / internet failure – I do not know whether it was broadband, actually, but some form disruption to the internet link to Pakistan, which meant that the husband would disappear from the screen and then reappear in a somewhat haphazard manner throughout the entirety of his cross-examination.

85. I should state that after I had reached my decision to hear the husband remotely, I received shortly before 2pm on March 19th 2025 a response to my email to the Taking of Evidence Unit at the Foreign and Commonwealth Development Office, which I summarised to both counsel shortly after receiving it.

86. The response advocated a different approach to the advice I had received from the FRC Leadership Judges, in that it stated that as Pakistan is not a party to the Hague Convention of 18 March 1970 a Letter of Request is required for the taking of evidence by video-conferencing ("ToE by VC") by a UK Court in a civil or commercial matter. Although "civil" is undefined, it would seem possible that it is perhaps intended to capture "financial remedy" proceedings such as these.

87. Without repeating here the comprehensive procedural guidance offered by the Taking of Evidence Unit in its entirety, the response continued:-

> *"[t]he next step would be for the law firm or requester in England or Wales that wants to organise the taking of evidence to contact the Foreign Process Section in the Royal Courts of Justice and ask them to prepare a letter of request to the competent judicial authorities in Pakistan requesting the taking of evidence by video conferencing."*

88. Guidance was given as to the content of the letter:-

> *"… a letter of request would need to be prepared to the competent judicial authorities in the country concerned requesting authorisation for the ToE by VC. A separate letter of request would be needed for each witness to be examined. This letter would need to … … state the nature of the proceedings for which the evidence is required, giving all necessary information with regard to them; and giving the questions to be put to the person to be examined or the subject matter about which he is to be examined [and it would] need to be accompanied by local language translations.*

89. The letter and response would then be forwarded through diplomatic channels, i.e. via the British Overseas Mission and the Pakistani Ministry of Foreign Affairs.

90. By that point my decision had been made, and evidence had begun, but the tension in the different guidance set out above is self-evident and it would assist the lower courts if formal clarification could be provided addressing that tension head-on, as to the expected correct approach of the court in the position in which the court found itself on the morning of the first day of the hearing.

91. Turning to the other matters to note with respect to the evidence in this case, there was no bundle provided either for use by the witness at court (in fact solely the wife) or by the husband when he gave evidence remotely, and so the shortcut for that was an electronic bundle (on a device) provided very helpfully by a legal executive for the wife, for which the court is very grateful as that saved (any further) delay on the first day.

The parties' evidence

92. The wife was in the witness box for a much shorter time than the husband. The husband was able to give his evidence remotely and I carefully repeated questions to him if he seemingly had not heard or understood Mr Braithwaite.

93. I also rephrased questions where I felt that they were either too long or where counsel and the witness were seemingly not talking about the same thing. I certainly do not criticise Mr Braithwaite at all, as it is incredibly difficult to cross-examine someone who you cannot even see; for most of the time, the husband was not even visible on the video-link due to what appeared to be the weakness of his internet connection or perhaps for another reason: it is not possible to say.

94. I had on the first day of this hearing asked the court staff here to send to the husband a telephone number that he could use to dial in to the hearing instead, but the husband did not avail himself of that and unfortunately, therefore, he had to rely essentially on a video connection that was arguably using more bandwidth and hence was less reliable. I do not know why he did not use the telephone number, but that was his choice. Annex 3 of PD 22A offers all sorts of constructive guidance and pre-emptive advice to parties, and I bear in mind that the husband has been represented by a solicitor and barrister throughout these proceedings and had had the benefit of their experience and advice.

95. Had all the hoops been jumped through as envisaged in Practice Direction 22A at Annex 3, there would have been much better provision for the husband to be able to give evidence and this would have been a lot easier, with the court perhaps not having to find itself sitting after 5 o'clock on Thursday, 20 March 2025. As a Deputy District Judge, I took the decision that I was going to sit late in order to deliver this judgment, particularly so that this case did not go "part-heard", as I stated when I began this judgment. I am grateful to the court staff here at Edmonton for their forbearance in that respect.

96. Each of the barristers produced a skeleton argument which I read in full, and there are two bundles in this case which I have read, which are the main bundle and the supplemental bundle. The latter largely contained detail and other documents to which counsel wished to refer the witnesses, who were just the wife and the husband..

Witness Credibility

97. The credibility of the witnesses is one of the core issues I have to deal with in this case. The wife gave evidence in a calm and measured manner. Appropriate concessions were made regarding her assertion in her section 25 statement that she worked in a service station in Jupiter.

98. She was robust where she needed to be and she gave ground where it was appropriate, and I do view her as a credible witness.

99. The husband in his evidence was very tetchy. He was verging on the aggressive. He was insulting (to counsel), but more to the point, he was inconsistent. He did not make any concessions. His case was very rigid. His answers were lengthy and unfocused and they were repetitive. I find that where there are factual matters in dispute I prefer the evidence of the wife to the evidence of the husband and it will be seen why when I go through his evidence.

100. I also note that it was alleged by Mr Braithwaite on behalf of the wife that it would appear that there was another person present in the room in Pakistan. We did not have on-screen sight of that other person.

101. There were sound delay difficulties on the video-link and I am not satisfied I can make a finding that there was another person in the room in Pakistan. There were occasions when it would appear that we could hear another voice on the video-link and the wife said through her counsel that the husband spoke to somebody in Urdu. I do not have enough information on the balance of probabilities to find that there was either one or more than one other person in the room at any time. I was told by the husband that there was not.

Confidentiality

102. In any event, I remind both parties in this case of the decision in ***Clibbery v Allan*** [2002] EWCA Civ 45, [2002] 1 FLR 565, in which Butler-Sloss LJ in the Court of Appeal analysed the authorities and held that there was in ancillary relief (financial remedy) proceedings an implied undertaking by the parties, given the compulsory disclosure of documents, not to make use of documents outside the ancillary relief proceedings (see paragraphs [71] and [72] of the judgment). This implied duty of confidentiality in financial remedy proceedings means that the information gleaned from these proceedings, which is produced under compulsion, is not to be used in other contexts without the permission of the court.

103. One exception to that is the use of documents in these proceedings for the purpose of providing them to the CMS. There is an Upper Tribunal decision of relatively recent vintage in that respect in ***MC v SSWP and TM*** (CSM) [2020] UKUT 157 (AAC) (12.5.2020), a decision of Nicholas Wikeley, Judge of the Upper Tribunal (AAC) explaining (at paragraphs [24] – [32]) that permission is not in fact required from the family court to deploy the other party's financial disclosure in an application to the CMS. That is, however, irrelevant in this case because the CMS does not have jurisdiction, the husband being habitually resident in Pakistan and accordingly, as a result of section 44 Child Support Act 1991 the court retains jurisdiction. Child maintenance may be determined either pursuant to section 23(1)(d) – (e) Matrimonial Causes Act 1973 or pursuant to section 15 of, and Schedule 1 to, the Children Act 1989 .

Legal Framework - the Drawing of Adverse Inferences

104. I turn to the law regarding the drawing of adverse inferences. I am assisted here by the helpful note that was produced by Mr Braithwaite on behalf of the wife . He referred to the decision in ***NG v SG (Appeal: Non-disclosure)*** [2011] EWHC 3270 (Fam) [2012] 1 FLR 1211. In that case, the key principles that were applied were as set out at paragraph [16] of the judgment of Mostyn J:-

> *"[16] Pulling the threads together it seems to me that where the court is satisfied that the disclosure given by one party has been materially deficient then*

"(i) The court is duty bound to consider by the process of the drawing of adverse inferences whether funds have been hidden.

(ii) But such inferences must be properly drawn and reasonable. It would be wrong to draw inferences that a party has assets which, on an assessment of the evidence, the court is satisfied he has not got.

(iii) If the court concludes that funds have been hidden then it should attempt a realistic and reasonable quantification of those funds, even in the broadest terms.

(iv) In making its judgment as to quantification the court will first look to direct evidence such as documentation and observations made by the other party." [That would be the wife in this case]

105. Mostyn J continues:-

"(v) The court will then look to the scale of business activities and lifestyle.

(vi) Vague evidence of reputation or the opinions and beliefs of third parties is inadmissible in the exercise."

106. Mostyn J then refers in his judgment to the judgment of Munby J in ***Al-Khatib v Masry*** [2002] EWHC 108 (Fam), continuing as follows:-

*"(vii) The **Al-Khatib v Masry** technique of concluding that the non-discloser must have assets of at least twice what the claimant is seeking should not be used as the sole metric of quantification.*

(viii) The court must be astute to ensure that a non-discloser should not be able to procure a result from his non-disclosure better than that which would be ordered if the truth were told. If the result is an order that is unfair to the non-discloser, it is better that than that the court should be drawn into making an order that is unfair to the claimant."

107. Mr Braithwaite adds that where there is evidence of non-disclosure, the court has not been afraid of making robust findings against the non-discloser. The reference here is to ***Al-Khatib v Masry*** [2002] EWHC 102 Fam, [2002] 1 FLR 1053, where the court drew

the inference that the husband had (quoting from paragraph [1] of the headnote in the Family Law Reports),

> *"sufficient assets to satisfy the wife's claim. The court was only entitled to draw inferences from the evidence before the court, which was limited. However, it did include evidence from the husband's friends and business acquaintances, documentary evidence as to the scale of commissions earned by the husband, evidence as to the value of certain properties and investments held by the husband, and the scale and determination of the husband's attempts to remove the assets from the reach of the court. ... ... While the materials before the court did not justify a finding that the husband was worth $200 million, it did justify a finding that the full extent of the family assets was very comfortably in excess of £50 million, and probably significantly more".*

108. There is a quotation in Mr Braithwaite's note from Munby J in ***Al-Khatib v Masry*** at paragraph [95], where it is stated:-

> *"[95] ...the husband has never even purported to give anything that can properly be described as a connected or narrative account of his business dealings or any real details of either the nature or scale of his commercial activities. In the circumstances as I have found them to be the inferences properly to be drawn are, in my judgment, first, that the husband's business activities have been, and continue to be, on the kind of grandiose scale indicated by the evidence of his business associates ... ... and, secondly, that the extent of his earnings and his wealth derived from his business activities is, has been and continues to be, vastly greater than he has ever been prepared to admit.".*

109. There is also reference to the decision in ***Moher v Moher*** [2020] 1 FLR 225. At first instance there the trial judge had found the husband guilty of significant non-disclosure. He was ordered to pay the wife a lump sum of £1.4M of the party's £1.7M visible assets in addition to paying periodical payments. The judge said the case had become far more complex than it need have been, due largely to the failures of the husband to provide adequate disclosure and his lack of adherence to court orders.

110. The husband argued on appeal that the court should not have made that award because it had failed to first quantify the scale of the non-disclosure. The Court of Appeal dismissed

that appeal and found that the court is not obliged to quantify the assets before drawing adverse inferences. While quantification is desirable, it is not always possible or proportionate (see paragraphs [81] – [84]).

111. Moylan LJ stated at paragraph [87]:-

> *"[87] (i) It is clearly appropriate that generally, as required by s25 of the 1973 Act, the court should seek to determine the extent of the financial resources of the non-disclosing party*
>
> *(ii) When undertaking this task, the court will, obviously, be entitled to draw such adverse inferences as are justified having regard to the nature and extent of the party's failure to engage properly with the proceedings. However, this does not require the court to engage in disproportionate enquiry. …"*

112. Moylan LJ continued at paragraph [89]:-

> *"[89] … …(iii) This does not mean … …that the court is required to make a specific determination either as to figure or a bracket. There will be cases where this exercise will not be possible because, the manner in which a party has failed to comply with their disclosure obligations, means that the court is 'unable to quantify the extent of his undisclosed resources', to repeat what Wilson LJ said in* **Behzadi v Behzadi"** *([2008] EWCA Civ 1070, [2009] 2 FLR 649).*
>
> *"[90] (iv) … …[W]hen faced with uncertainty consequent on one party's non-disclosure … … the court is entitled, in appropriate cases, to infer that the resources are sufficient or are such that the proposed award does represent a fair outcome."*

113. So I direct myself accordingly.

Legal Framework - Other Resources: Wider Families

114. I also bear in mind the decision in ***M v M*** [2020] EWFC 41, [2020] 2 FLR 1048. That is a decision dated 20 May 2020 of Robert Peel QC sitting as a Deputy High Court Judge (as he then was). There is a passage set out at paragraphs [65] to [68] about provision of resources from a spouse's wider family.

115. The question the court asks itself at paragraph [65] is,

> *"Should a court enquire into the willingness of the wider family to assist one or both spouses?"*

116. I have in mind the second scenario set out at paragraph [66]. I will just read out the headline summary, but I have in mind also the text that follows, the headline referring to a scenario:-

> *"[66] … (ii) [w]here family members who are gratuitous donors are willing to make funds available by gift or loan to the relevant spouse. In this instance, the spouse has no legal or beneficial interest, it is a pure act of generosity for a person under no obligation to do so."*

117. It is that second category of case which I bear in mind when going through the evidence in this case.

S 25(2)(a) – the income, earning capacity, property and other financial resources (etc.)

118. So I return now to the income, earning capacity, property, and other financial resources of the parties which they have or are likely to have in the foreseeable future (i.e. s 25(2)(a)).

119. I deal firstly with the suggestion that Ms Ramzan, for the husband, makes that big money cases have principles that you should not apply to small money cases. I reject that in its entirety. I am entitled to apply the law that I have just summarised in this case, even though this is a case of extremely limited assets.

The husband's apparent lack of bank accounts

120. Firstly, the husband no longer has, he says, any bank accounts in England.

121. His NatWest account was closed in August 2022. His Lloyds account ceased to be used in 2022, and the letter of closure for that account [SB 277] says that it was closed in April 2024.

122. H's Barclays account was formally closed on 13 April 2023 [SB 412], the closing balance of 'nil' appearing under the headings "End balance" and "Account closed."

123. H also had an Andromeda Bank account in Pakistan, which we can see from [SB 596] was closed by 9 January 2025. The same document states that the account was opened on 17 February 2015. The actual purported closing date is written in biro at the bottom of the document with some seals next to it as being 31 December 2022. All of those are significant for reasons which I shall come to.

124. There are no statements provided by the husband for that Andromeda Bank account. It was said by the husband in his evidence that there was a policy in Pakistan that you were not able to get those statements, unlike in the UK.

125. The chronology of the husband's disclosure is in this case important. His form E was blank, with no documentary evidence in support, despite at the very least the Lloyds account being open and there being an obligation for him to disclose those statements. There was no documentation for Apartment B. The first documentation that was given was in May 2024. The wife was first told of the repossession in March 2024 but there was no documentary evidence of it until the husband's replies in May 2024, and that is the possession order of DJ Parker of 29 November 2023 [SB 270] in claim number [CLAIM NO. REDACTED].

126. At the time of his form E, the husband could have quantified the negative equity for which he now contends. At Box 2.1 the "total" box is blank (although there is a statement "there is negative equity" and a mortgage balance of £400,000 is stated to be outstanding). There is no further reference to this or to the value of the property on this Form E (the "Summaries" box on page 20 containing "0.00" in each box). He elected not to elucidate the alleged negative equity and he did not mention the fact that a possession order had been made with respect to this property, a property which the parties had lived in and of which he was at least the legal owner. No bank statements were received until after the failed FDR appointment in July 2024 when a penal notice was put on the order.

127. I do find that it is not a good enough excuse that the husband was in Pakistan for him not to obtain those statements. He had notice of these proceedings and it took him seven months to produce those statements.

128. The wife obtained the bank statements. She then analysed them. There was a letter written on 9 October 2024 by Wilsons solicitors [267]. In his responses, the husband

said, for the first time on 21 October [270], that monies shown in his statements from Pluto Garage in [English town], being £130,000 and £6,000 on his case, were his father's funds and were simply transferred to him to avoid bank charges. That was also the first time he referred to an informal gambling ring which had led to cash deposits in his bank account of c.£62,000, and it is said that that was a reactionary step by the husband to being provided with figures from bank statements.

Pluto Service Station and the parties' incomes

129. The court does not have clear information with respect to Pluto Service Station from 2020 to 2022. There are references to two companies at Companies House. One of them is Pluto Garage Limited, which has company number [REDACTED Co.No.1], incorporated on [x] October 2023 and dissolved in 2024. The second company, Pluto MOT Limited, has company number [REDACTED Co.No.2], and incorporated on [x] April 2024. Neither of these companies have either directors or shareholders who are either the husband's father or the husband in this case. We do not have the full picture for how the land at that address, which is Pluto Garage, [Redacted Address], was being used, or how the business was being managed on that land between 2020 and 2022.

130. However, it is clear that the wife said that she worked at Pluto Service Station and that she was not paid for the same. She said the husband sat at home. She said that she was not paid for that work, and I find that that was the case. The husband said that he would run voluntary errands for his father. I find that that is not the case and that he was in fact being remunerated for his endeavours at both of the service stations. I do find, therefore, that the figures that were coming into the bank account and are frequently labelled "salary" are indeed what they say they are.

131. In his replies to questionnaire, the husband was asked to provide a schedule setting out his remuneration and benefits from Pluto Service Station, and from any other company. He simply said his business belongs to his father and that he has no interest in the business. It is very curious that there were considerable payments being made to the husband from that account. This was not mentioned (none of those payments were mentioned) in his form E and in his replies to questionnaire the husband was also asked to provide evidence of any benefits he had received. A schedule of deficiencies was

produced. That has remained unanswered since last June (2024). It is dated 11 June 2024 and may be found at [SB 181].

132. The husband says he has no bank account in Pakistan, and the court was told in evidence that his uncle ferries cash from his parents in England to Pakistan, rather than the husband having his own bank account in Pakistan. The husband says he cannot open a bank account. The husband says that the banks closed his bank accounts in England (i.e. he did not instigate the process of their closure).

133. He does not in his replies to questionnaire, when he is asked about his finances, mention the regulations he told me in his oral evidence were applicable in Pakistan. The husband has consistently said that he is supported by his parents, beginning with what is said on his form E, and continuing through to his recent correspondence in his replies.

134. Third-party disclosure orders were made on 23 December 2024, referred to earlier in this judgment, and it was one day later that the husband's solicitors received a letter from Andromeda Bank with respect to the other account in Pakistan.

135. Now, I am told the wife's case at its highest is that the husband's salary is £292,136. I think I have set out how what that figure comprises at paragraph [61] above. I do not find either that his income is to that extent, or that, even if his income were as high as the sums totalling £136,000 from the two garages, that the figure of £136,000 is necessarily what it is now. I do however find that that is what it is likely to be on the balance of probabilities: i.e. £136,000 is an earning capacity which is it is reasonable to expect the husband to acquire, and that what happened in the year 2022 is a good benchmark for what that earning capacity really is.

136. I refer to Class Legal's publication "At a Glance": Table 22, Gross Salary and Net Income: if one looks at a gross salary of £137,500 pounds, it leads to a net income of £79,239.

Allegations that the wife had access to and used the husband's bank accounts without the husband's consent

137. Payments were made from the husband's Lloyds account and his Barclays account on occasion, [264], and they all went to the account in Pakistan that ends *8901, which is

the Andromeda Bank account which is now closed. Those have been totted up by Mr Braithwaite and they amount to £47,700, and, having heard each party's account of those payments, I do find that those payments were made by the husband himself and not, as the husband says, by the wife from the husband's account.

138. I do not find the husband's evidence of the wife having access to his Lloyds account to be plausible. The small amounts of money that the husband was able to identify that were being paid to the wife are inconsistent with the wife having access to that account, and for other reasons that I will address later in this judgment, I do not trust anything the husband has to say about the operation of his bank accounts in this country.

139. I find that the husband was not telling me the truth in his evidence and, as I have said earlier in this judgment, I prefer the evidence of the wife to that of the husband where there are points in dispute.

140. The husband said that the wife was sending money to the wife's brother in Pakistan. The husband said in his written evidence and reiterated in his oral evidence that the wife's brother threatened to break his legs at a meeting at a gymkhana. I do not trust the husband's account of this meeting and I do not trust, given the husband's complete absence of reference to this on his form E, that there were monies being taken from his account by the wife.

The husband's alleged liabilities

141. The husband's debts on the ES2 that are in dispute have never been evidenced. I have referred to two of the husband's liabilities that the wife accepts, but the others are not accepted. I find that the [Redacted Property Management Co.] debt is not a debt of the husband: it is a debt of his father. So that then leaves the other three debts on the ES2 which are respectively:-

    141.1. to family members, £42,781;

    141.2. Mr N, £13,699, which is referred to in a letter; and

    141.3. expenses stated as being owed to the husband's father, Mr HF, of £140,000.

142. Mr Braithwaite took the husband to those alleged liabilities in his cross-examination and the explanations that were provided by the husband do not, in my judgment, hold water.

143. In the husband's section 25 statement, the husband makes for the first time an allegation that 1 crore and 20 lakhs was owed to a Mr KBA, the wife's brother. According to the husband, that sum seemingly translates to pounds on 11 March 2025 as £28,197.08. That is where the alleged threat that Mr KBA would, according to the husband "break [his] legs" first appears, as late as 11 March 2025. I do not find that evidence remotely plausible, and if it was true, it would have been raised earlier in these proceedings.

144. I think I have referred to the £112,000 debt that is the purported negative equity on Apartment B. Although the property is legally in the name of the husband, in my judgment this is a debt that will ultimately fall to be paid by Mr HF, the husband's father, particularly in light of the agreement to which I have made reference at page 165 of the bundle, where there was a comprehensive arrangement between the husband and his father that his father would be the beneficial owner of the property, with all the other ancillary and attendant matters I have referred to in detail at paragraphs [10] – [17] of this judgment. So I do not find that the husband has a debt of £112,000 on his side of the balance sheet.

145. At page 151 of the bundle, the husband says in his replies to questionnaire that Apartment B was purchased by his father and it was his father who paid the mortgage, and that further bolsters my finding with respect to the alleged liability for £112,000 or the 'negative equity' of £112,000. It was pointed out indeed by Mr Braithwaite that of course the husband would bring proceedings under TLATA against his father if there was any dispute between him and his father about that, but I am conscious of the judgment in ***M v M*** [2020] EWFC 41, [2020] 2 FLR 1048 referenced in the legal framework at paragraph [114] above, that this is a family member who has consistently provided for his son throughout the course of the marriage before and indeed at present, and I do find that that liability would be met by the husband's father.

S 25 (2)(b) – the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

146. I consider first the present circumstances of the husband. He is living, by his own admission, in a luxury property in Pakistan. All his needs are met by the generosity of

his family. He has tried to say in evidence that he is surviving on £10 per day and that he does not have a bank account.

147. It is implausible to think that the husband's lifestyle has changed significantly from what it has been historically. I find that he was, as alleged by the wife, receiving payments from Pluto Service Station and that he was receiving payments from Jupiter Service Station and he was using monies to pay, typically, his American Express cards.

148. My finding with respect to the transfers that went into the accounts in 2022 from Pluto is that those monies, insofar as they were not used for living expenses, were transferred via [Anon Money Xfer Co.] to the account in Pakistan where they have been hidden from the view of the court, and the amounts that were credited on several occasions frequently mirror precisely what was used to clear the husband's credit card balances. The husband was funding his personal debts from the monies that he was receiving from Pluto and from Jupiter Service Stations.

149. There were some very implausible explanations given for other transactions and the husband was taken through those in cross-examination.

150. There were for example some credits from LWSF and from Mr GQP. These were monies received in January, 2022. There were sums received from Mr HT, from AO, from Mrs HM, from DZ, and from [Anon Car Co.]. The numbers which the witness was taken to and which I briefly list below add up to £92,801 from these various entities, and that includes two further figures of £6,733, (middle of page 268) and the figure of £1,669, which purports to be a loan from his brother.

151. The total of those figures is £92,801, as set out below:-

DZ	26,179
Mr GQP	2,240
LWSF	15,800
Mr HT	2,920
AO	6,000
Mr HF	5,360
[Anon Car Co.]	10,900
Mr HF [344]	15,000
Mrs HM [268]	6,733
Alleged Loan from brother	1,669

TOTAL	**92,801**

152. That is the figure that the wife adds onto the other income figures which the wife's counsel has in his spreadsheet schedule (which was provided to me in electronic form in as a .xlsx file) which also references cash deposits of £62,639, which I find were received, and the two figures from Pluto and Jupiter, which I find were received (as set out at paragraph [61] above) .

153. I accept that there is some circularity in some of the payments, and that there was some money that went back to the husband's father and the husband's mother, but given the size of the payments in question and the limited amounts upon which it is necessary for me to make findings in this judgment, and given the manner in which the wife sets out her case, that does not affect my judgment. Also, the husband had every opportunity to address the arguments of Mr Braithwaite prior to coming to court and to give a full explanation of his disclosure, and he has chosen not to do so. I am entitled to draw adverse inferences against a non-disclosing party where there is evidence to show that matters are not as the non-disclosing party says they are, as set out in my analysis of the authorities at paragraphs [104] to [113] above.

S 25(2)(c) – standard of living

154. As for section 25(2)(c), I find the parties did have an opulent standard of living during the course of their relationship and that was funded by way of the husband's income from various sources.

S 25(2)(d) – the age of each party and the duration of the marriage

155. I have addressed these matters at paragraphs [4] and [5] above.

S 25(2)(e) – any physical or mental disability of either party

156. In her written evidence the wife states that she has no physical or mental disabilities that affect her ability to work.

157. The husband stated that he suffers from gastritis, anxiety and aerophobia (fear of flying). He also states that he is too unwell to work at present or in the future. I have already referred to the two letters from Dr Q (paragraphs [23], [65] and [66] above). These do not address the impact, if any, of the husband's alleged health conditions on his ability

to work. In her written evidence, which I accept, the wife states that the husband had contacted her recently to inform her that he was in the UK and that he wished to see the children. The wife also points out, correctly, that the husband did not provide medical evidence from a UK-based doctor, and had not provided sufficient medical history or information clarifying the extent of his alleged health conditions.

158. I find that the alleged aerophobia is not sufficiently backed up by the flimsy medical evidence the husband has provided from Dr Q in the two short letters provided. I treat with extreme scepticism the claim that the husband is aerophobic given what the wife has said, which I believe, that the parties have been to Dubai and that of course he has on occasion flown to and from Pakistan. I simply do not accept he has aerophobia and I do find that he is trying to evade the jurisdiction of this court and the powers that this court has to make orders against him, because he is trying to defeat the wife's claims for financial relief.

159. I do not find on the balance of probabilities that the husband has provided sufficient or any evidence that his alleged health conditions prevent him from being able to work or lead to him having any additional needs to which I should be alert.

S 25(2)(f) – the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;

160. In her written evidence the wife stated that she had made significant contributions to the family as a wife and mother. I accept her evidence on this point and that she was and is the primary care-giver for the parties' three children. I also accept her evidence that she worked at various family businesses (namely two service stations) without formally being paid, carrying out administrative tasks, providing customer service and managing stock. The wife estimates that she worked an average of 20 hours each week at these businesses. I have made findings with respect to the service stations at paragraphs [128-136], [147], [148], [152] and [153] above.

161. Having heard the evidence of both parties I find that the husband provided the family with his income from various sources, including his employment, his family's businesses and his gambling winnings.

S 25(2)(g) – the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;

162. The wife has elected not to rely upon conduct.

163. For completeness I simply state here that I have addressed the issue of the husband's very poor disclosure above in making my findings as to his income and earning capacity and I also invited counsel at the conclusion of this hearing to address me as to costs.

S 25(2)(h) – any benefit ... which, by reason of the dissolution … of the marriage, that party will lose the chance of acquiring

Pensions

164. The husband has no pension provision

165. The wife has a NEST pension with a CE of £724, which is largely post-separation, if not entirely post-separation, and I am also not going to make a pension sharing order because that is a figure upon which it would be ludicrous so to do, and so I leave that to one side.

Outcome

166. The wife's rationale is that she seeks £3,500 per month, but that for every pound that the husband is ordered to pay her, this will result in a pound for pound reduction to her universal credit. That universal credit is £2,822 per month (page [16]) and the difference between that and £3,500 is £678 pounds per month.

167. Considering the wife's income she is unable without some form of additional financial provision to meet her needs, which are set out at SB129 (as increased) in her offer letter of March 2025 [16]. I do find that from the net income I have found the husband to have (paragraph [136] above) that the husband is able to meet the award that the wife seeks, which will enable her then to meet her needs. I find that the wife does need those extra sums of money, and I do accede to the wife's request in her offer, which I am just going back to at page 13, that there will be a series of lump sums paid to the wife at four six-month intervals over a period of two years at £13,895.75 per payment, equating to a total of £55,583. I had some discussion with counsel about the case of ***Hamilton v Hamilton***

[2013] EWCA Civ 13, [2013] Fam 292 and I believe that counsel is seeking a series of lump sums, which is the order I make, so as to ensure that the lump sums are not variable.

168. I am told that that enables the wife to continue to receive the benefits to which she is currently entitled.

169. I am conscious that, pursuant to s 25(1) MCA 1973, first consideration is required to be given to the parties' three children. The children all live with their mother (their father is not of course in the jurisdiction) and attend local educational establishments. Their mother, the wife, is not asking the court in her offer to provide for any change in her current living arrangements and I simply note that the wife will continue to live with the parties' children in her current, or in the future perhaps similar, accommodation. The wife's address has been requested to remain confidential and I have not looked at the address held on the court file.

170. I am satisfied that the husband does have an earning capacity (see paragraphs [135 - 136] above). That is clearly demonstrated by the payments that were made to him in 2022. There were cash payments that he received that have been unexplained, and those cash payments total £47,700. I accept Mr Braithwaite's analysis of those (provided on behalf of the wife). I do find that the husband deliberately transferred money out of the jurisdiction in order to evade the watchful eye of this court and to try to defeat a claim for financial provision from his wife. I note that section 37 MCA 1973 would entitle me to set aside those transactions, but in practical terms I am not being invited to do that. It would in any event be extremely difficult so to do (bearing in mind the difficulty of enforcement), given that the husband is in Pakistan.

171. I have already said, in considering s 25(2)(h) MCA 1973 that I am not making a pension sharing order. I find that in so far as the husband has liabilities, I am not making any order that enables him to meet his own alleged liabilities. I do not find that the liabilities that he has set out in his ES2, where they are now highlighted in yellow, are genuine liabilities, so that is the £42,781, the £13,699, and the £140,000. Insofar as there are family arrangements between the husband and his family members, I find that these are soft debts. I am conscious of the guidance of his Honour Judge Hess in the case of ***P v Q*** [2022] EWFC B9 at paragraph [19(x)], and bearing that helpful guidance in mind I do

find that these are not liabilities that I am required to take into consideration, not least in terms of timing, and not least in terms of someone who is a non-discloser.

172. I find that the husband has lied to this court on many matters to do with his finances. He has not produced the bank statements he should have done. I do not trust that he has provided the full picture to the court. I have drawn adverse inferences that there is family money and perhaps non-family money too (e.g. in undisclosed bank accounts) in Pakistan to which he is entitled, and I do not have to quantify that money, I simply have to say that there is enough to meet the award that the wife seeks.

173. As for the husband's income needs: I find that the husband's income needs are being met, either, if he is right, by the generosity of his family, or of course by his own ability to meet his own income means by exercising his earning capacity. I am told he has a degree in business of some kind. He certainly told me in his oral evidence that he had been a student.

174. Therefore, I do not find that there is going to be any problem with respect to the husband continuing to meet his own income needs and indeed his lifestyle.

175. I should pause there and say that the husband's offer was broadly speaking a clean break. It is set out in his letter at [26].

176. The husband sought an order that each party retains any assets and bank accounts in their names and that each would be responsible for all liabilities in their respective sole names. The wife would retain her pension and there would be an immediate capital and income clean break. I do not find the husband's offer to be an appropriate or fair solution in this case in light of the various findings I have made in this judgment, having read and heard the evidence of the parties.

Indemnity, deferred clean break and series of lump sums

177. I will, for the avoidance of doubt, order the husband to indemnify the wife against any liabilities for which she may be pursued arising from the parties' relationship. That is a bit of a broad indemnity but because I do not trust the extent of his disclosure it is very difficult for me to identify specific liabilities, and I of course have the power to order an

indemnity, as clarified by Mostyn J in ***CH v WH*** [2017] EWHC 2379 (Fam). The relevant wording appears in the Standard Family Orders anyway.

178. In response to a request from Ms Ramzan towards the end of my handing down this *ex tempore* judgment I clarify that the indemnity is ongoing.

179. Further, the wife retains her pension and each party will be responsible for any liabilities in their sole names.

180. Upon satisfaction of the series of lump sum payments that are made by the husband to the wife, there will be a clean break between the parties.

181. Finally, I need to make a finding with respect to the proceeds of sale of the Land Rover Cruiser. I do find that the husband received proceeds of sale of £10,000 from the Land Rover Cruiser motor vehicle. I do not know where it is and I put that on the husband's side of the schedule of assets and incomes although there is no particular consequence to that.

182. I do also find, I think I have already said this, that the husband has the £47,700 referred to at paragraphs [46], [56.1], [137] and [170] above somewhere in Pakistan, although I do not know where.

183. Further, I reject the husband's explanation with respect to the banks having unilaterally closed the husband's accounts in England and I do not accept the explanation with respect to the Andromeda Bank in Pakistan having closed the account without positive action by the husband.

Deputy District Judge Gwynfor Evans

END OF JUDGMENT