

JERSEY / JUDGMENT

P -v- O (Matrimonial) [2017]

JCA 054 (04 April 2017)

[2017] JCA 054

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Court of Appeal 4 April 2017 Before : James McNeill, Q. C., President; John V. Martin, Q. C., and Sir David Calvert-Smith. Between P Appellant And O Respondent The Appellant appeared in person. Advocate M. R. Godden for the Respondent. judgment of the court the president: 1. On 27 February 2017 our judgment was issued on the appeal in this matter. That appeal was made against a decision of the Royal Court (Family Division) (Le Cocq, Deputy Bailiff, with Jurats Fisher and Ramsden) dated 15 September 2016 (P-v-O (Matrimonial)

[2017] JRC 166) in which it had sat in an appellate capacity from an order of the Family Registrar dated 15 December 2015. That order had been pronounced as part of a series of ongoing matrimonial and family disputes between the present parties. 2. In paragraph 6 of our judgment we pointed out that, given that the available procedure here allowed for an appeal to an experienced appellate body and that very significant weight was to be attached to the findings and discretion of the Registrar, it was clear that we could only intervene when the Royal Court had clearly gone wrong in understanding the situation which the Registrar faced or in identifying the law to be applied. 3. The principal contention for Mr P before us had been that the Registrar had been wrong in fact and law to pronounce the financial orders which proceeded upon a determination that Mr P had been responsible for a failure to sell the matrimonial home in late 2015. It was clear to us that we could not sustain the principal line of attack as there was evidence before the Registrar, both documentary and oral, to entitle her to reach her conclusions. 4. As to Mr P's alternative arguments, some could not be entertained because of our limited powers on appeal, others fell with the principal argument, others could not be sustained as they had not been argued below and, for the remainder, we reached the conclusion that the Registrar had been entitled, on the material before her, to reach her decisions. 5. The Respondent now seeks her costs of and incidental to the Appeal on the standard basis; whilst suggesting that an application for a claim on the indemnity basis would not have been beyond the realms of possibility. In the submission of Advocate Godden, the Appellant had been entirely unsuccessful on all of his grounds of appeal and, in bringing an appeal which had no merit, had put the Respondent to considerable expense in defending the judgments of both lower Courts. 6. In responding to that application, Mr P sought to reinforce the strength of some of the arguments which he had made before us

and sought to bring to our attention certain issues said to arise in the context of new proceedings commenced by the Respondent. None of these contentions and submissions are relevant to the issue presently before us. 7. The general rule that costs follow success is not as rigorously applied in matrimonial cases as it is in other types of dispute. The approach in matrimonial cases is more flexible and often attempts not to add, unnecessarily, to burdens already being borne through a severed relationship. In this case however, where the appeal to this court was, principally, a restatement of the appeal to the Royal Court, and where it could be disposed of by reference to the materials available to the Registrar, we consider that the Appellant has indeed put the Respondent to unnecessary expense and that the Respondent should be entitled to her costs on the standard basis. Authorities P-v-O (Matrimonial)

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