

JERSEY / JUDGMENT

PS v C [2003] JRC 155 (09 September 2003)

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judgment

the bailiff: 1. The Court has heard argument this afternoon in relation to a summons for variation issued by the respondent. The Court is not today dealing with issues relating to costs which we leave over for another day. 2. We are also not concerned this afternoon with the interpretation of the judgment of the Court delivered on the 9 th July, 2003. It is plain that the Court's judgment speaks from that day. 3. What we are concerned with is an application by the respondent, pursuant to Article 32 of the Matrimonial Causes Jersey Law, 1949, as amended, to vary the maintenance order of £20,000 per month, ordered by this Court on the 11 th October, 2002, and later upheld by the Court of Appeal. 4. Mr Hoy has submitted that it would be unfair to order the respondent to pay maintenance at the rate of £20,000 per month between the 1 st May, 2003, when the argument on ancillaries came to a conclusion, and 9 th July when the judgement of the Court was delivered. 5. As we understood the argument of counsel for the respondent, it was basically that the Court's order of 9 th July resulted in a lesser sum than £20,000 per month being paid to the petitioner and that it would therefore be equitable that the £20,000 per month be reduced either to the equivalent of the amount ordered to be paid with effect from the 9 th July, or some figure in between. 6. We have a discretion to exercise on an application of this kind. Having considered all the arguments advanced by counsel, we decline to vary the order in the exercise of our discretion essentially for two reasons: (i) As contended by Mr Robinson for the petitioner, the order for interim maintenance was an entirely different kind of order from that ultimately made by the Court on 9 th July. The wife's income under the interim order resulted exclusively from the maintenance of £20,000 per month ordered to be paid. Under the final order of 9 th July, the wife's income is derived from a number of different sources including the interest element on the 2.2 million pounds capital payment which the respondent was ordered to make. One is not therefore comparing like with like in considering the interest payment on the capital sum and the interim maintenance order. (ii) In considering whether a discretionary power should be exercised in favour of one of the parties, it is reasonable to take into account the conduct of the parties seeking the exercise of discretion in his favour. When we do that we see that the respondent was warned by the Court of Appeal in its judgment given on the 17 th January 2003 that parties must recognise their obligations under Court orders. The Court of Appeal stated at paragraph 20: "Parties must recognise their obligations to comply with the orders of the Court. I would expect the Royal Court to treat any continuing failure to obey its order or the orders of this Court very seriously." 7. Notwithstanding that warning the respondent took it upon himself

unilaterally to vary the order of the Court and for the month of June 2003, paid only £10,000 at the beginning of the month and did not pay the remaining £10,000 due for that month until the 1 st July 2003. 8. So far as the amount representing the interest due on the 2.2 million pounds is concerned the Court has ordered that the proportionate amount, for the period 9 th July to 1 st August, 2003, should be paid on the 1 st August. This payment was not made however until the 5 th August 9. The sum due on 1 st September, 2003, was also not paid on the due date and, as we understand it, was paid only today, that is to say 9 days late. This is not a fruitful ground upon which to base an argument for the exercise of the Court's discretion in favour of the respondent. 10. We therefore refuse to vary the order made by this Court and upheld by the Court of Appeal and maintenance at the rate of £20,000 per month must continue to be paid at that rate until the date of judgment that is to say 9 th July, 2003. We order that any outstanding amount which may still be due by the respondent to the petitioner should be paid forthwith. 11. We are concerned to ensure that the respondent does meet his future obligations on the due date. We therefore make a further order in relation to the interest payments which are due to be paid on the first day of each month and we order the husband to make arrangements forthwith for the interest payments to be paid by standing order so that the petitioner receives value on the first working day of each month. We would regard it as contemptuous conduct for that order not to be put into effect so that the amount due on 1 st October, 2003, is received on that date. 12. The costs of this application will be paid by the respondent on an indemnity basis. No Authorities Page Last Updated: 27 Mar 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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