

SOUTH AFRICA / JUDGMENT

AG v YG (3932/2016) [2023] ZAWCHC 147 (15 June 2023) [2023] ZAWCHC 147

COURT

Western Cape High Court, Cape Town

BEFORE

J Cloete

CASE / FILE NUMBER

3932/2016

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN THE HIGH COURT OF
SOUTH AFRICA
(WESTERN CAPE
DIVISION, CAPE TOWN)

Case No: 3932/2016

In

the matter between:

AG
Plaintiff
and
YG
Defendant

Coram:

Justice J Cloete

Heard:

18 – 20, 24, 26, 27 and 31 October 2022; 2,
3 and 7 – 10 November 2022; 18 and 19 April 2023;
supplementary calculations
and schedules provided on 4 May 2023
Delivered
electronically: 15 June 2023

JUDGMENT

CLOETE J:

Introduction

- [1] This highly acrimonious divorce action commenced with the plaintiff (wife) instituting proceedings against the defendant (husband) on 7 March 2016. After a number of interlocutory applications and various postponements the trial finally commenced on 18 October 2022, and evidence was led over 13 days.
- [2] The plaintiff was present in court to testify through a Hebrew interpreter. The defendant testified via audio-visual link from Israel, as did the plaintiff's daughter, S, from a previous marriage. The defendant's accountant expert testified partly via audio-visual link from Richards Bay and personally in court.
- [3] Given the somewhat outdated pleadings and the evidence led during the trial, the parties' legal representatives ultimately prepared a statement of agreed issues for determination (one of these is whether a decree of divorce should be granted, but the parties are ad idem that such an order is appropriate).
- [4] In a nutshell the remaining issues for determination are: (a) the plaintiff's entitlement, if any, to personal maintenance (including payment of medical cover and/or medical expenses) until her death or remarriage, whichever occurs first (there is no dispute that if maintenance is awarded it should be for such a period); (b) whether the defendant has discharged his obligation in terms of the antenuptial contract to pay the plaintiff \$40 000 USD; (c) who is the rightful owner of a sum of \$100 000 USD previously held in escrow in a Wells Fargo bank account and currently held in trust by the plaintiff's attorneys; and
- (d) costs (it being agreed that those pertaining to the plaintiff's most recent application to compel discovery, launched on 21 September 2022, will be costs in the cause of the divorce action).
- [5] The analysis of the evidence will thus only deal with these issues. Further, given that the plaintiff will only be entitled to personal maintenance if she proves that she is unable to meet her reasonable monthly needs from her own resources, I will deal with this issue after determining what those resources appropriately comprise.
- [6] As stated, both parties testified. Each adduced the evidence of their respective accountant experts, namely Mr David Black (appointed by the plaintiff) and Mr Clayton Ellis (appointed by the defendant). The plaintiff's daughter S testified on limited issues on her behalf. In addition the reports of Mr Adrie Stander, a forensic IT specialist, and Mr Nilen Kambaran, an actuary (both of whom were appointed by the plaintiff) were admitted as evidence by agreement.

Undisputed contextual facts

- [7] At the time of the trial the plaintiff was 71 years old. This is her third marriage. The defendant is 74 years old and this is seemingly also his third marriage. Both parties are in extremely poor health and no longer work in any capacity.
- [8] The parties met in 2002 at a party in Tel Aviv, Israel where the plaintiff was residing permanently at the time. She was self-employed as a cosmetician. The defendant was a non-practicing medical doctor and a businessman. They became romantically involved and he persuaded her to move to South Africa with her younger daughter S in about August 2003.
- [9] They were married to each other on 18 September 2003 at Johannesburg, South Africa, out of community of property by antenuptial contract with the express exclusion of the accrual system provided for in Chapter 1 of the Matrimonial Property Act.[1] The defendant was domiciled in South Africa at the time.
- [10] Clause VIII of the antenuptial contract provides that '[i]n consideration of the said intended marriage [the defendant] gives [the plaintiff] an amount equivalent to US \$40 000'. The antenuptial contract was drafted by the defendant's attorney and signed at his offices on 17 September 2003, i.e. the day before the marriage. The plaintiff's command of the English language was minimal at the time and the defendant translated the terms of the antenuptial contract to her before it was signed.
- [11] No children were born of the marriage although the parties have 8 children between them from previous marriages and/or relationships.

The parties separated permanently in March 2016. They were divorced in the Religious Court of Israel on 18 February 2020. Arising from their Ketuvah[2] the plaintiff was awarded 360 000 Israeli shekels which the defendant ultimately paid.

- [12] Since their separation the plaintiff has moved between South Africa and Israel, but has been primarily resident with S and the latter's husband, D, in Herzliya (about 40km outside Tel Aviv) since about December 2020, when she returned to Israel for heart surgery which took place in March/April 2021. The couple have supported her financially during this period apart from paying her personal expenditure such as clothing and toiletries and her medical costs.
- [13] The defendant is terminally ill. He too is residing in Israel, in a suburb of Tel Aviv, namely Givatayim. The main reason he returned to Israel is for medical treatment.

The parties' respective financial resources apart from the disputed \$140 000 USD

- [14] Both Black and Ellis put in an enormous amount of effort and, despite various criticisms levelled at them during cross-examination and subsequent argument, it is my view that they understood their duty to be objective, were credible and reliable, and were of great assistance to the court. Their areas of difference in truth related to their respective approaches to certain assets and liabilities, a fact which both fairly acknowledged and left to the court to decide which approach should be preferred.
- [15] The agreed or undisputed value of the defendant's minimum net assets is R24 148 181.67. Although the experts did not completely agree on what portion constitutes liquid or near liquid assets, nothing turns on this since the defendant did not place his ability to afford maintenance or to "meet" the \$140 000 USD in issue.
- [16] In their joint minute signed at the commencement of the trial (on 18 October 2022), Black valued the plaintiff's net assets at R5 528 985.77 and Ellis (save for what follows hereunder) at R5 737 182.37. The difference of R208 196.60 is an amount held in a Wells Fargo cheque account in the plaintiff's name. Black excluded this amount because he was informed that the plaintiff's other daughter SH, who resides in the USA, is the owner of these funds and holds a general power of attorney over that account. According to Black, his opinion that it should be excluded was reinforced by his instruction that the plaintiff is not registered as a taxpayer in the USA. Black was not provided with a copy of this power of attorney or any other objective proof of who in truth owns the funds, and SH elected not to testify.
- [17] The sum of R208 196.60 at the date adopted by the experts converted to \$11 762 USD. The plaintiff's evidence initially was that, of this sum, \$10 000 USD belonged to SH and the balance of \$1 762 USD to her. She then proceeded to give two diametrically opposed versions. While conceding that SH has her own bank account in the USA, the plaintiff first testified that:
- (a) SH 'put' the \$10 000 USD into the plaintiff's account for the plaintiff's use during her visits to the USA or to buy air tickets, although SH is still the owner; and then (b) it is the plaintiff's own money for her use on these visits.
- [18] She conceded that no objective evidence was produced by her to support any of these three versions. In these circumstances her evidence on this score may fairly be rejected without more, and the sum of R208 196.60 thus falls to be included in her net assets in accordance with Ellis' calculation of R5 737 182.37.
- [19] The experts identified two liabilities in arriving at the plaintiff's total net assets, consisting of legal fees of R750 000 incurred since November 2020, and future or unpaid dental expenses in South Africa of R354 702.32. The experts were ad idem that they accepted these figures without any supporting documents for sake of practicality in the face of the looming trial.

- [20] The plaintiff was cross-examined on these liabilities. It was subsequently conclusively demonstrated that she was unable to provide any objective evidence in respect of her legal fees of R750 000 and indeed she candidly conceded that this figure had been provided by her attorneys, who it is noted declined shortly before the commencement of the trial to provide details when asked by the defendant's attorney. The plaintiff's future or unpaid dental expenses were also conclusively demonstrated to be, not R354 702.32, but R280 600.
- [21] In order to place what was conclusively demonstrated in proper context, I was mindful of what the Supreme Court of Appeal stated in *Bee v Road Accident Fund*. [3] It was for this reason that during cross-examination of the plaintiff, and despite the experts' agreement on these two liabilities at face value, I gave the plaintiff the opportunity to produce supporting documentation in the form of legal fee invoices (redacted in respect of attendances if necessary) and a quotation for her future or unpaid dental treatment. The plaintiff failed to provide the fee invoices and the quotation supplied for future or unpaid dental treatment was R280 600.
- [22] In respect of the alleged legal fees liability of R750 000 the following is also relevant. Not only were no invoices provided for the period since November 2020, but it is common cause that in December 2020 the defendant paid another contribution towards the plaintiff's legal costs in the sum of R350 000 in terms of an order made under uniform rule 43(6).
- [23] While it stands to reason that the plaintiff would have incurred legal fees subsequent to November 2020, the fact of the matter is that she bore the onus of proving this liability in the face of a timeous repudiation of the experts' acceptance at face value. She singularly failed to do so and it is not for this court to speculate on what that liability might be. Insofar as the matter of timeous repudiation is concerned, the Supreme Court of Appeal in *Bee* expressly stated that: [4]
- 'The limits on repudiation, particularly its timing, are matters for the trial court. The important point for present purposes is that repudiation must occur clearly and timeously. The reason for insisting on timeous repudiation is obvious. If the repudiation only occurs during the course of the trial, it might lead to a postponement to allow facts which were previously uncontentious to be further investigated. It might be necessary for a party to recall witnesses, including his or her expert. Whether a trial court would allow this disruption would depend on the circumstances...'
- [24] In the present matter none of the risks highlighted by the Supreme Court of Appeal eventuated. Moreover, the invoice in respect of the plaintiff's future or unpaid dental treatment was handed in without objection. In these circumstances the liability in respect of legal fees of R750 000 falls to be excluded, and the liability in respect of future or unpaid dental treatment to be adjusted from R354 702.32 to R280 600, leaving the plaintiff with identifiable net assets of R6 561 284.09.
- [25] On the eve of the trial Ellis adjusted his net asset value calculation of the plaintiff's estate upwards from R5 737 182.37

to R16 289 562.38. This adjustment, according to Ellis, was attributable to: (a) a share portfolio of R1 368 125.24;

(b) unknown loans or transfers of R2 380 953.15; and

(c) forex transactions of R6 852 230.51.[5] Ellis made the overall upward adjustment by analysing the available statements of the plaintiff's Hapoalim bank account in Israel over the periods July 2015 to May 2020 and September 2020 to July 2022; and transfers in and out of the plaintiff's First National Bank and Wells Fargo accounts that could not be traced to other bank accounts.

[26] During his testimony Ellis however made clear that these had been identified only as potential assets, since they were exclusively based on movements on the accounts; he did not know who owned the shares which appeared to have been bought and sold; he had no opening or closing balances for verification purposes; and he did not know the source(s) of deposits and receipts. He fairly acknowledged, as was Black's opinion, that these were possible duplications and that he would willingly revise his opinion if verification and corroborative evidence to the contrary were to be provided.

[27] The share and forex transactions only pertain to the Hapoalim account. Despite attempts on behalf of the defendant to suggest the contrary, I am persuaded that the evidence of both the plaintiff and/or S was honest, credible and reliable on this score, and was supported in part by the statements themselves as well as a certain agreement to which I refer below.

[28] According to their testimony S started working in 2014 and became a co-signatory on the Hapoalim account in either 2014 or 2015. She had started dating her husband D in 2013 and an opportunity arose for her to make money by trading in shares and forex. Since D had experience in this field she decided to take up that opportunity, under his guidance, and traded through that account. Both she and D have continued to trade since that date. D is not an Israeli citizen and cannot hold his own separate Israeli bank account.

[29] On 30 June 2021, 1 million shekels were paid into the account, being the major portion of the plaintiff's half share of the proceeds of an immovable property registered jointly in the names of herself and the defendant in Netanya, Israel. On 12 July 2021, S used the bulk of this amount to purchase foreign currency of 989 419.75 shekels.

[30] On 22 July 2021, 362 931 shekels were paid into that account pursuant to the Religious Court order in the plaintiff's favour; and on 3 August 2021 the balance of the plaintiff's share of the Netanya sale proceeds of 290 000 shekels were deposited therein. A number of share and forex transactions followed both of these deposits as well. Both the plaintiff and S testified that around that time the plaintiff agreed to loan the sum of 1.2 million shekels to S for the purpose of trading.

[31] In the face of the pending divorce trial the plaintiff was advised by her attorneys to reduce the terms of the oral loan agreement to writing. On 1 September 2022 the plaintiff and S signed a 'Family Loan Agreement' recording the terms of the earlier oral loan agreement

concluded on 1 July 2021. The capital of the loan is reflected therein as 1.2 million shekels. The loan term expires on 1 July 2023 and the capital attracts interest at the rate of 1.25% per annum which is a comparable rate to that charged by Israeli banks. Also included in the written recordal of the loan is a provision that the plaintiff is entitled to repayments of 25% of the capital during the loan period each 3 months upon request.

- [32] Again, the evidence of both the plaintiff and S was that the plaintiff has no knowledge of how to conduct transactions of this nature, and that it was S and/or D on her behalf who made all of them. The suggestion by the defendant to the contrary was both vague and unsubstantiated.
- [33] It is accordingly my view that the upward adjustments made by Ellis in respect of the share portfolio of R1 368 125.24 and forex transactions of R6 852 230.51 are duplications of the funds received by the plaintiff from the proceeds of the sale of the Netanya property and the Religious Court order, and should thus be disregarded.
- [34] The plaintiff initially testified that she is the sole holder of the FNB account ending with 9047, and that all transactions were conducted under her sole control. Ellis highlighted certain questionable ones on that account. I refer only to the more substantial amounts.
- [35] On 5 October 2020, an app payment was made to 'Jacob' of R200 000. On 24 December 2020 a transfer of R100 000 was made to 'investment... saving'. On 28 October 2021 a further transfer of R270 000 was made to 'investment... my'; and on 24 March 2022, R300 000 was transferred to an FNB Premier Select account with a different account number ending
8717. The statements in respect of the latter account were never provided by the plaintiff.
- [36] Over the same period credit transfers were made into the 9047 account of R102 616.55 from account 8717 on 30 September 2021; R165 000 from 'Metain P' on 28 October 2021; R294 000 from an unknown source on 23 March 2022; and R110 000, again from an unknown source, on 7 April 2022.
- [37] At a previous stage the divorce trial was due to commence towards the end of November 2020. However the plaintiff could not recall why "Jacob" was paid R200 000 just over a month earlier on 5 October 2020. She was also unable to recall transferring R100 000 to an investment on 24 December
2020. She speculated that the R165 000 credit into her account
- on 28 October 2021 might have been the proceeds of the sale of her motor vehicle. She could also not recall the transfers out of that account of R270 000 on 28 October 2021 and R300 000 on 24 March 2022.

- [38] When pressed for an explanation in cross-examination the plaintiff, out of the blue, claimed that ‘it went to the friend who has got the power of attorney on the account. It went into his account and he then returned the money to me...’. She reluctantly identified this friend as one Jacob B ‘the person that I rented from [in Cape Town]’. She thereafter tried to explain away all of the transactions as having been carried out by Jacob alone as ‘something that Jacob must have done’.
- [39] This was the first time that Jacob featured in the trial and no evidence was produced to substantiate the plaintiff’s claim that he held a power of attorney over the account. Moreover, although it is common cause that Jacob lives in South Africa, the plaintiff did not call him as a witness to support her version. Consequently between October 2020 and April 2022 – and only in respect of the more substantial amounts – R870 000 flowed out of the FNB 9047 account and R671 616 flowed in, all without any proper explanation.
- [40] It is thus difficult to resist the inference that the plaintiff has another account(s) which she elected not to disclose, but given the lack of detail any undisclosed amounts in credit cannot be quantified on the evidence before the court. What is relevant is that the plaintiff seemingly has access to substantial undisclosed resources with which to pay a considerable portion of her legal costs without negatively impacting on the valuation of her total net assets.
- [41] For this reason I also touch briefly on the plaintiff’s other Wells Fargo (High Yield Savings) account. In his 2022 report Ellis noted inter alia that on 6 September 2018, \$80 526 USD was deposited into that account, followed on 12 September 2018 by a transfer of \$100 000 USD to ‘Legacy Bank of Flo’ (presumably Florida in the USA). Although these transactions were marked as queries in Ellis’ report the plaintiff failed to deal with them. These transactions might relate to the dispute pertaining to the \$100 000 USD (which I deal with below) but on the evidence this is pure speculation.
- [42] What is worth noting is that after withdrawing \$100 000 USD the credit balance in the savings account of \$12 477.37 USD was transferred to the plaintiff’s Wells Fargo cheque account and the savings account then closed. The cheque account is the same one in respect of which one of the plaintiff’s versions was that \$10 000 USD in that account belongs to SH.

Whether the defendant has discharged his obligation in terms of the antenuptial contract to pay the plaintiff \$40 000 USD

- [43] Central to the determination of this issue are the following undisputed facts. First, both parties throughout the marriage considered money to be of prime importance. Second, the plaintiff complained she was hoodwinked by the defendant into signing an antenuptial contract excluding the accrual. Third, there is no evidence that \$40 000 USD was ever paid in terms to the plaintiff by the defendant.

- [44] Fourth, at one of the low points in the marriage when the plaintiff made clear to the defendant that she would leave him unless provided with proper financial security the parties, with the assistance of a friend (“AB”) entered into an agreement on 10 December 2014. Its terms were reduced to writing by AB.
- [45] What is clear from this document – headed ‘Financial Agreement’ – is that the defendant’s considerable assets (including, according to him, loan accounts held by the plaintiff in name only) were individually valued, and the plaintiff was “awarded” 50% of the total net assets which included an apartment in Netanya, Israel. Significantly, despite the meticulous detail in the agreement, no mention whatsoever was made of any portion of the plaintiff’s 50% “award” being in lieu of the \$40 000 USD donation.
- [46] Fifth, and in any event, the defendant reneged on that agreement within a few days of its conclusion. Sixth, and apparently not once before the plaintiff was cross-examined did the defendant provide a version of how his obligation to pay the \$40 000 USD was purportedly discharged. It was only then that according to him the parties subsequently orally agreed that 26% of a later apartment purchased in Netanya would constitute payment, with the defendant to own the remaining 74%.
- [47] The plaintiff emphatically denied this, maintaining ‘there was never any issue about the \$40 000 USD. I had told him that he must take my portion of the money from what had accrued between us which I understood to be, you know, common accrual’. Finally, a further factor militating against the defendant’s belated version is that the later Netanya apartment was in fact registered jointly in the parties’ names, although the reason was disputed.
- [48] Given the defendant’s undoubted business acumen and meticulous manner in which he dealt with his financial affairs throughout the marriage, there is little doubt in my mind that the defendant’s version on this score must be rejected. It follows that the plaintiff is entitled to payment of the sum of \$40 000 USD.

The rightful owner of the \$100 000 USD

- [49] It is common cause that when the parties married in 2003 the plaintiff owned an immovable property in Tiberius, Israel, and that in 2008 she sold that property and transferred \$100 000 USD of the proceeds to a Swiss bank account held by the defendant.
- [50] During her evidence the plaintiff did not attempt to conceal the fact that in 2014/2015, when the parties were arguing over money, she successfully contrived a scheme to deceive the defendant into paying that sum to her under the pretext of a loan to SH in the USA. The defendant transferred \$84 000 USD from his Swiss account to SH, with the plaintiff transferring \$16 000 USD to SH from funds paid by the defendant into her Hapoalim account. The plaintiff opened (it seems) the Wells Fargo savings account and SH then transferred the monies to that account.

- [51] It is this \$100 000 USD that became the subject of separate litigation and which was placed in escrow before being transferred to the trust account of the plaintiff's attorneys. Although I accept the defendant's version that when he deposed to his answering affidavit in the first rule 43 application on 31 October 2016 he was not aware of the fraud, he himself reflected, as one of the plaintiff's assets, the sum of \$100 000 USD 'in her bank account in the USA'.
- [52] While it was argued on behalf of the defendant that, given the fraud, the plaintiff should not be permitted to benefit, the fact of the matter is that there is no persuasive evidence before the court to indicate that the plaintiff was repaid \$84 000 USD of the total of \$100 000 USD by the defendant in any other manner. He was only able to speculate that she herself had transferred \$30 000 USD to SH and \$70 000 USD to her Absa bank account in South Africa around 2010 or 2011. Accordingly, even if I were to find that the plaintiff should not benefit from her fraud, this would not relieve the defendant of his obligation to pay \$100 000 USD to her from another source. In my view the only practical way of resolving this is to order that the plaintiff is entitled to the \$100 000 USD currently held in trust by her attorneys.

The plaintiff's entitlement or otherwise to personal maintenance

- [53] Given my findings the sum of \$140 000 USD must be added to the plaintiff's revised net estate, increasing her identifiable net asset base from R6 561 284.09 by R2 478 000 to R9 039 284.09 using the same conversion rate of 17.7 rands to the US dollar adopted by the experts in their joint minute.[6] For convenience I will round this off at R9 million.
- [54] Although Ellis suggested that a South African interest rate of 9.15% per annum should be used to calculate what the plaintiff could earn on her capital, I agree with Black that this would be artificial, since the plaintiff now resides permanently in Israel; is not registered as a South African taxpayer; and the bulk of her assets are not located here. Black suggested, and I agree, that the appropriate rate to apply is that of the Bank of Israel at an average of 1.25% per annum.
- [55] In simple terms this equates to R112 500 per annum or R9 375 per month. To this must be added the plaintiff's Israeli pension of R11 000.70, i.e. a total of R20 375 per month. Importantly however this calculation presupposes that the plaintiff is entitled to preserve her entire capital base (save obviously for inflationary erosion), and that is not the legal position.
- [56] The plaintiff was born on 5 May 1951 and is thus currently 72 years old. In his actuarial reports Kambaran stated that he used the Pensioner Annuitant (90) – 1 table for females to 'estimate the mortality experience' of the plaintiff, although this table was not placed before the court. However (and this is all the court can do in the circumstances) assuming that despite her poor health the plaintiff lives for another 20 years, she will have access to considerable liquid and near liquid assets to top up what is reasonably required for her maintenance needs.

- [57] With regard to those needs the plaintiff failed dismally in proving what they were. Not a shred of supporting documentary evidence was produced by her to any expert, or the court during her testimony. The plaintiff's schedule of her monthly maintenance "requirements" totalled 24 540 shekels (if renting) or 24 924.13 shekels (if buying a property in which to live). However she was only able to give generalised testimony, the upshot of which was 'some of them are expenses I have had and some of them I asked friends...'. This was despite the plaintiff having been asked on no less than six previous occasions since 2017 (in the form of rule 35(3) notices from the defendant) to substantiate what she claims she needs.
- [58] I accept of course that the plaintiff has monthly maintenance needs, but it cannot be expected of the court to divine what they might reasonably be. The best I can do is rely on the evidence of the defendant (which was in my view credible) about his own monthly expenditure for comparative purposes. According to him it totals about 8 300 shekels per month for rental in a middle class suburb of Tel Aviv, utilities, internet, food, groceries and transport (but excluding medical costs).
- [59] I will assume, generously, in the plaintiff's favour that this should be rounded up to 10 000 shekels per month to cater for other expenses such as clothing, cosmetics and toiletries, entertainment and holidays. Applying the exchange rate adopted by the experts of 5.10 shekels to the South African rand, this translates to R51 000 per month, leaving the plaintiff with a potential shortfall – again generously – of R30 625 per month (i.e. her pension plus interest income of R20 375 less R51 000). There is no doubt that the plaintiff will be able to fund such a shortfall (if it indeed exists) from her mostly liquid or near liquid capital.
- [60] The plaintiff failed to give any persuasive evidence to refute that of the defendant in relation to the cost and quality of healthcare in Israel. He testified that medical aid in Israel is compulsory (irrespective of age, status or state of health) and is government controlled. It costs a nominal amount (150 to 200 shekels per month) and covers hospitalisation, medication, doctors visits, x-rays, radiation and similar treatment, in other words the needs of an ordinary individual.
- [61] The defendant's undisputed evidence was that medical care in Israel is of a high standard, and notwithstanding his own medical condition the majority of his costs are covered by the medical aid. In his words 'the basket is vast' although certain specific procedures he has had to undergo (a biopsy and PET scan) which were not covered cost him in total 5 000 shekels. Every medical aid covers 50% of dental treatment in selected dental clinics, although if one chooses a private clinic then treatment is not covered.
- [62] This puts into proper perspective the plaintiff's entirely unsubstantiated claims for medical insurance, medication, 'other' medical expenses and dental treatment totalling 1 650 shekels per month. In this regard it is noted that, although advanced as a separate claim, these costs were included in her total maintenance "requirements" of around 24 500 shekels per month.

[63] Moreover the plaintiff has already had extensive dental treatment in South Africa and the actual cost thereof has been taken into account in arriving at her revised net asset value. Again, I have no doubt that she is able to pay for her reasonable medical and similar treatment in Israel from her own resources.

Costs

[64] Each party has been partially successful, but given the undisputed disparity in value of their identifiable respective net assets, the appropriate order to make is that set out hereunder.

[65] The following order is made:

1. A decree of divorce is granted;
2. The defendant shall pay to the plaintiff the sum of \$40 000 USD (FORTY THOUSAND US DOLLARS) within 60 (sixty) calendar days from date hereof;
3. The plaintiff shall retain the sum of \$100 000 USD (ONE HUNDRED THOUSAND US DOLLARS) currently held in trust by her attorneys of record as her sole property;
4. The balance of the plaintiff's claims are dismissed; and
5. Save for the contributions paid by the defendant towards the plaintiff's costs, which she may retain, each party shall pay their own costs, including any reserved costs orders.

J I CLOETE

For applicant: Adv M Holderness

Instructed by: Abrahams & Gross Inc., J Smuts, H Kotze

For respondent: Adv P Torrington

Instructed by: MacDonald Attorneys, M MacDonald

[1] No 88 of 1984.

[2] A religious marriage certificate in terms of which the defendant had to pay certain money to the plaintiff.

[3] 2018

(4) SA 366 (SCA) at paras [64] to [69].

[4] At para [69].

[5] There is an unaccounted for amount of R48 928.89 – according to the experts the figure is R159 267.71. Nothing turns on this.

[6] Black subsequently used an exchange rate of 18.10 rands to the US dollar in his addendum dated 3 May 2023, but for sake of consistency I will apply the exchange rate adopted in the experts' joint minute.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAWCHC/2023/147.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/ag-v-yg-unknown-topic-awchc-2023>

Prepared on 10 October 2026 · Esheria