

RC (Mother) v AB (Father) [2015]

[2015] EWHC 1693 (Fam)1693

06/06/2015

Barristers

Mark Jarman KC

Court

High Court Family Division

Practice Areas

International Children Law

Summary

Application by a mother to relocate permanently with the parties' 8 year old son to Angola.

Facts

Mr Justice Cobb allowed a mother's application to relocate permanently with the parties' 8 year old son to Angola.

The court performed a fact specific welfare analysis based on the child's circumstances, actual and proposed, in each jurisdiction. Cobb J applied the guidance of Black LJ in *K v K* (Relocation: Shared Care Arrangement) [2011] EWCA Civ 793, [2012] 2 FLR 880[2012] 2 FLR 880, that "the only authentic principle" in relocation cases is welfare, i.e. what is best for a specific child in specific circumstances. Each case is unique and falls to be decided on a broad foundation of facts.

Both parties were aged 26 at the time of the hearing. The father was born and had always lived in London. His family were of Caribbean extraction but were currently based in London. The mother was originally from Angola though she had spent a large part of her childhood in South Africa after her family had fled the civil war. From 1997 until August 2013 the mother lived in the UK, where she met the father. At the time of the trial before Cobb J the mother's immediate and extended family predominantly lived in Angola but they retained links to this jurisdiction.

The parties met at school in 2004 when both were in their early teens. They had an intermittent relationship until final separation in 2012. They were never married but the father was named on the child's birth certificate and he had parental responsibility for the child.

It was an unusual feature of the case that the mother had removed the child to Angola without the consent of the father in August 2013. The father had sought the assistance of Reunite and obtained orders from the English High Court immediately. He also contacted the police, and by the time of the trial before Cobb J the mother had been arrested on suspicion of criminal child abduction and was on bail pending prosecution. An officer from the Metropolitan Police attended the family proceedings. Cobb J

made findings against the mother in respect of this removal and her motivation in executing it. Her conduct in 2013 overshadowed her application for permission to relocate.

The court heard allegations of violence, harassment and general parental conflict within the parties' relationship, in respect of which Cobb J made findings within his judgment. He also made findings that the father had used social media to put pressure upon and even to humiliate the mother among her peers. Some findings Cobb J declined to make due to the passage of time and the loss of available evidence in the interim period.

The mother and the child had remained in Angola from August 2013 until February 2015 so the court had a realised context to analyse his welfare in both jurisdictions. The court rejected the mother's evidence about the level of indirect contact she had facilitated between the father and the child during the period after August 2013, but also considered other beneficial aspects of his life in Angola, including his educational development and ties to extended members of his maternal family. It was agreed by the parties that the child had enjoyed and benefited from the direct overnight contact with the father that was instated by the court after the mother returned temporarily to the UK in February 2015.

Held

After considering in detail the advantages and disadvantages of returning to Angola as opposed to remaining in the UK with reference to the circumstances and welfare of the subject child, Cobb J granted the mother permission to relocate permanently with the child to Angola. Such permission was made conditional upon her demonstrating to the court that she had executed a charge against a family property in UK to be realised (subject to permission of the court) if she were to breach an order for contact between the father and child that Cobb J made at the same time, and further demonstrating that she had obtained a mirror order in Angola containing certain provisions, including contact, of the child arrangements order made by Cobb J. Other orders were made in relation to the shared exercise of parental responsibility. Finally, leave was given for the judgment to be disclosed to the Metropolitan Police in respect of the allegations of abduction and harassment.

Permission

Family Law Week 