

B v B (2010)

[2010] 2 FLR 1214 : [2010] Fam Law 905 : [2010] EWHC 193

15/01/2010

Barristers

Mark Johnstone

Court

Family Division

Practice Areas

Financial Remedies

Summary

The court divided assets between a husband and wife having regard to their respective needs taking account of resources which the husband was likely to receive in the future by way of a substantial, deferred bonus.

Facts

The applicant wife (W) sought an order for ancillary relief against the respondent husband (H). H and W had married in 1996. There were three children of the relationship. The parties separated in 2007 and decree nisi was pronounced in 2008. W and the children remained living in the matrimonial home. H's income fluctuated annually, and consisted of a relatively modest basic salary and a discretionary performance linked bonus paid in part in cash in the following year with the balance deferred and paid in instalments over three years. He had earned considerable sums post 2007 and was entitled to a deferred bonus payment for 2009. The parties agreed that W was entitled to receive part of the wealth that H had accrued post separation, but disagreed on the amount. The court was required to determine how much W should receive as part of a clean break award. W submitted that she should receive half of the parties' wealth, including bonuses earned by H as at the date of the final hearing. H contended that W's award should reflect the fact that a significant part of his resources had accrued after the parties had separated.

Held

HELD: (1) As a matter of policy, W was not entitled to half of the wealth as at the date of trial. It was not a case where such an award would either be appropriate or justified, *Charman v Charman* (2007) EWCA Civ 503, (2007) 1 FLR 1246 and *Miller v Miller* (2006) UKHL 24, (2006) 2 AC 618 considered. To so award would give insufficient weight to the fact that a substantial part of the wealth pool had accrued as a result of H's endeavours post-separation, nor would it be justified by reference to W's needs. The available resources totalled £15m, which included the deferred instalments that H would receive for bonuses awarded for 2006 to 2008 inclusive. Broadly assessed, W required total resources of £7 million, consisting of just over £1 million in respect of her capital needs and approximately £6 million in respect

of her income needs. That met W's needs but also provided her with a fair share of the available resources. W was also entitled to 15 per cent of all sums received by H in respect of his deferred bonus instalments for 2009. It followed that if H was to receive the full bonus due for 2009, being £3.5 million, W would have total resources of £7.5 million and H would have £11 million. (2) Since the capital had been divided unequally in H's favour, H was obliged to pay the children's maintenance.

Permission

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