

L v L [2011]

[2011] EWHC 2207 (Fam)

15/08/2011

### **Barristers**

Private: Jonathan Cohen QC

### **Court**

Family Division

### **Practice Areas**

Financial Remedies

### **Summary**

Appeal in financial remedy proceedings against termed maintenance order. Appeal successful.

### **Facts**

In financial remedy proceedings, the total assets were found to be £3.4m net which comprised both parties' homes and the husband's business premises. In open positions, W sought payment of a lump sum of £100,000 and joint lives' maintenance at the rate of £60,000 (to include children's maintenance but excluding school fees). H sought a lump sum from W of £200,000 on a clean break basis.

DJ Bowman ordered H to pay a lump sum of £35,000 and global periodical payments of £47,500 on a joint lives basis.

H appealed, stating that, in ordering the global figure for joint lives, the judge had failed to make findings as to current and likely future income, failed to assess H's ability to make the order, failed to have regard to the W's capital assets from which she could meet her needs, failed to have regard to the parties' shared care arrangements, and failed to consider a deferred clean break.

### **Held**

King J found the judge at fault in not making any specific findings as to income, and in not including in her judgment any assessment of her own as to the affordability of any order for periodical payments, simply stating that £47,500 was what H could afford. She considered that the basis upon which the global figure was reached was not set out. She noted, however, that it was not incumbent on the judge to set out income and outgoings with precision, but that it must be possible to follow the logic and the route by which the judge had reached the conclusion she did. King J substituted the previous order with an order for H to pay £30,000 pa.

The judge then considered whether the making of a joint lives' maintenance order had been plainly wrong. It was noted that statute requires consideration of whether a term order should be made and the district judge had not done this. The judge decided that the wife, who owned a mortgage free farm, could

and would, become self sufficient, and that she had a safety net in the form of the capital in the farm. She ordered that maintenance should be payable for 2 years and 5 months, with a bar to extending the term.

## Permission

Family Law Week 