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**NOT REPORTABLE
IN THE HIGH COURT OF SOUTH AFRICA
NORTH GAUTENG, PRETORIA**

CASE NO.: 52148/2007

DATE:22/06/2009

In the matter between:

L W

Plaintiff

And

L W

Defendant

JUDGMENT

Ismail AJ:

[1] The plaintiff instituted an action for a decree of divorce together with ancillary relief such as the control and care of the major children; 50% of the childrens tertiary and secondary schooling expenses be paid by him; that he tenders to keep the major children on his medical aid scheme and furthermore he tenders to pay maintenance in the sum of R1000,00 per month in respect of each child.

[2] The defendant pleaded to the plaintiffs particulars of claim and in turn she counter- claimed a higher amount for maintenance for the children and she also claimed maintenance for herself.

At paragraph 5 of the counter claim the defendant pleaded as follows

"Inaggenome die duur van die huwelik. die feite wat aanleiding gegee het tot die verbrokkeiding daarvan. die wesentike wangedraag van die Eiser, die ouderdom van die verweerderes. die verdien vermoë van die Eiser, vergeleke met die van die verweerderes. die lewensstandaard wat die partye gehandhaaf het gedurende die bestaan van die huwelik en die Verweerderes se redelike onderhoudsbehoefte sal dit reg en billik wees indien die Eiser geïas sou word om by te dra tot die onderhoud van die Verweerderes en wel soos volg:

5.1. deur die betaling van 'n bedrag van R25 000.00 per maand:

5.2. Die Eiser om die Verweerderes geregistreer te hou as 'n lid op sy

mediese fonds en alle redelike mediese uitgawes te betaai wat namens die Verweerderes aangegaan mag word,

5.3. Herverstingskoste om Verweerderes in staat te stel om 'n woonhuis aan te hoop vergeleke met dit wat die partye bewoon het dedurende die bestaan van die huwelik en die vervanging van die Verweerderes se motorvoertuig met n soorgelyke nuwe motorvoertuig."

[3] Paragraph 5 of the counter-claim was amended as follows :

3. deur die deurskrywing van die syfer "R5 000.00 waar dit voorkom in paragraaf 3.4.4 en vervang daarvan met die syfer "R10 000.00"

4. Deur die deurskrywing van die syfer "R25 000.00" waar dit verskyn in paragraaf 5 1 en die vervanging daarvan met die syfer "R5 000.00"

[4] The plaintiff and defendant were married to each other out of community of property on 8 January 1988 Initially the accrual system applied to the marriage, however, this was done away with in terms of section 21 of the Matrimonial Properties Act, 88 of 1984 [the Act], They changed the proprietary consequences of their marriage to exclude the accrual system.

[5] Three children were born of the marriage, they are all majors. The eldest

two are twins who are studying towards a B.Com degree at Pretoria University whilst the youngest, a son is presently a student in grade 12 at Crawford College. The parties are living apart since April 2006. The defendant and the children live at the matrimonial home at Weavindpark,

This house is a 6 bedroom house with three garages and a swimming pool. The servants quarters comprise of 3 bedrooms, toilet; bathroom and storeroom. The house is situated on land in excess of 3000 sq metres. This property is registered in the plaintiffs name.

[6] The plaintiff is a medical doctor who practises as a general practitioner in Tshwane. He has built a considerable practice over the years. He has an in-house dispensary which the defendant ran and supervised. Since 2005 the plaintiff opened an account referred to as the "*Praktyk 2 rekening*" wherein all cheques: medical aid payments; electronic transfers and all monies apart from cash were deposited. After paying the expenses of the practice and dispensary he and the defendant shared the proceeds. This method of sharing monies continued up to the 23 October 2008.

On behalf of the plaintiff it was submitted that the defendant lacked the *tocos standi* to claim maintenance on behalf of the major children. The plaintiff relied on the matter of *Butcher v Butcher* 2009 (2) SA 421 (C) as authority for this view.

[7] As a consequence of the plaintiffs reliance on the *Butcher* decision this resulted in the three children bringing an application to intervene as co-defendants in this matter, Eventually the matter stood down from Friday afternoon when the court adjourned for it to deliver its judgment on Monday morning on the application, On Monday as the court was about to deliver its judgment on this application 1 was told that the plaintiff agreed to pay over maintenance to the children on a monthly basis as follows:

to each of the twins: R3 000,00 per month;

L: R 2 500,00 per month

In addition to the aforementioned amounts, the plaintiff agreed to pay to the children directly the expenses set out in at para [41] hereunder.

[8] I was requested by counsel that notwithstanding the plaintiff agreeing to pay over maintenance as agreed for the major children, I nevertheless incorporate the intervening application in my judgment as there appears to be scant authority on this aspect I accede to counsels request hereunder

The Intervening application brought by the major children

[9] The three major children seek to intervene in this action which the plaintiff instituted against the defendant. They seek to be cited in this action as the

second, third and fourth defendants in recortventian

[10] The applicants in their papers submitted that they have an interest in these proceedings because there is a legal duty upon the plaintiff and the defendant to support them.

[11] The plaintiff in his particulars of claim at paragraph 9 stated;

"Dit sal in diB afhanklike kinders se bests belange wees indien beheer en toesig oor die kmders aan die verweerderes toegeken word, onderhawig aan eiser se redelike reg tot kontak en besoekregle"

In the order which the plaintiff seeks, the plaintiff at prayers 2.1; 2.2 and 2.3 stated the following;

"2.1. Bebeer en toesig oor die afhanlike kmders aan die verwerderes toegeken te word, onmderhawig aan eiser se reg tot redelike kontak en besoek:

2.2. Die eiser get as word om 50% van die kinders se secundere en tersiere opleidmg te beiaal:

2.3. Die eiser gelas word om die afhanlike tonders geregistreerd te bou as afhanlikes op sy med/ese fonds.

[12] The summons was issued through the Registrar's offices of the 8 November 2007.

[13] The plaintiffs attorneys addressed a letter to the defendant's attorneys dated 30 April 2009 to the following effect:-

"Vervolgens is u klient nie geragtig om bede 3, saamgelees met paragraaf 3.4 van u klient se teeneis, volgens die nuutste gesag synde die saak van Butcher v Butcher 2000 (sic) (2) SA en die kinderswet. af te dwing nie, van weë 'r gebrek aan locus Standi., e/7 kan sy nie onderhou (sic) namens meerderjarige persone vrae nie. U klient moet dus die deel van haar eis abandoneer en moet die drie hinders self ons klient nader om finansieel bystand/onderhoud"

[14] The letter referred to above was written less than three weeks preceding the trial date; namely the 19 May 2009. This set in motion a train of events resulting in this application being brought by the applicants.

[15] On behalf of the plaintiff, Ms Veldman submitted that the defendant did not provide the plaintiff with a schedule of expenses she incurred for the living expenses in respect of the children. She also submitted that the plaintiff at no stage expressed the intent not to pay such expenses. On the other hand Mr Smith SC submitted that the plaintiff only asked for

these expenses during May 2009.

[16] Mr Smith submitted that the plaintiff in his papers agreed to pay the childrens' expenses subject to him agreeing with them on the expenses. He argued that it was conditional and it was not an unequivocal commitment to pay those expenses. He also submitted that the plaintiff's attitude was that the children should negotiate and agree with him on the expenses alternatively they should seek to resolve their maintenance dispute against him in the maintenance court-

[17] The plaintiff was of the view that the defendant is entitled to claim the maintenance she incurred for the children in respect of their living expenses under the head of her maintenance claim against him. In the light of Butcher matter she had no right to claim maintenance for expenses such as education, travelling and medical expenses for major children. They should pursue their own claims.

[18] For this reason the applicants sought an order to intervene in these proceedings. Mr Smith submitted that the 'piece meal' approach to the maintenance issue of the children, namely that the defendant could pursue her claim in this court whereas the children must prove their claim in the maintenance court should not be entertained.

The plaintiff in his opposing affidavit at para 6.3.3 and 6.3.6, stated:

" 6.3.3. *nie enige van aplikants sal deur die bestande teoedrag van sake benadeel word nie.*

6.3.6. *Dit is onnodig dat enige van die applikante by die*

Egskeidingaksie betrek word, indien bulle van voornome is om na die egskeidingaksie die onderhoudshof te nader, word ek geadviseer, vjeike advres ek aanvaar, dat die onderhoudshof na beide my en die verweerderes se vermoens sal kyk ten einde te bepaai hoeweel en tot waiter mate die onderskeoe partye ivaf bydrae tot die applicants se onderhpud

Mr Smith submitted that the court should not permit this dicotomy or piece meal approach whereby the defendant could pursue her claim in this court whereas the children must prove their claim in the maintenance court. He submitted that it was unacceptable and should not be entertained as there would be no prejudice to the plaintiff if the application were to succeed

[19] The plaintiff raised this issue in the light of the *Butcher* decision.

Gassner AJ al para J14J thereof stated:

“regrettably, neither the Divorce Act nor the Children's Act expressly authorise a parent with whom an adult dependant child reside to claim maintenance on his/her behalf from the other parent. Placing the burden on an adult dependant child who still lives at home in most circumstances puts him/her in an invidious position. Also where an adult dependant child still lives at home and the primary residence parent requires a contribution in respect of his living costs, it is undesirable that such a parent should look towards the adult child to pay over a contribution from the amount received as maintenance from the other parent. This difficulty was recognised by Ward LJ in the case of G v G (periodical payment jurisdiction) [1997] 1FCR 385 (CA) at 381H-382J, an English authority to which Gordon -Turner referred: it is not uncommon for older children, and especially undergraduate children, to operate their own bank accounts and to manage an allowance provided for them. That is money which should be paid to them. It may be wholly appropriate that children learn from having personal control over a modest allowance, but it is not appropriate that there should be a relationship between parent and child which requires contribution towards the costs of maintaining the home and all that goes with it for the benefit of the child. This is what happened in this case, and it proved embarrassing for both mother and daughter. Management of the household budget should be left for the adult. That dichotomy is properly reflected in the order made by the judge. I reject the submission that there was no jurisdiction to make them. As Mrs Mullaly pointed out, it is now common practice to make orders for payment partly to the child (or the parent of the child) and directly to the fee paying school. There is in

my judgment power to make an order to the child as well as to the parent for the child,

Inasmuch as the English legislative framework governing the payment of Children's maintenance differs substantially from the relevant South African statutes, this English case is not authority that I have the power to make a maintenance order in respect of an adult dependant child at the instance of the child's parent."

[20] Rule 12 of the uniform rules of Court reads:

Any person entitled to join as a plaintiff or liable to be joined as a defendant in any action may, on notice to all parties, at any stage of the proceedings apply for leave (o) intervene as a plaintiff or a defendant. The court may upon such application make such order, including any order as to costs, and give such directions as to further procedure in the action as to it may seem meet.

The question "*entitled to be joined as plaintiff*" was dealt with in the matter of *Shapiro v SA Recording Rights Association Ltd* 2008 (4) SA 145 at 150 D where A Gautsehi AJ dealt with the view expressed by authors of Erasmus Superior Court Practice.

In *Ex Parte Moos a: In re Hassim v Hariop-Allin* 1974 (4) SA 412 at 416 D - Bliss AJ stated :

" In my opinion Moosa's application for leave to intervene is seriously and

not frivolously made, and sufficient prima facie case has been made out by him.

In Mgobozi and others v The Administrator of Natal, supra at p.7S0D, the teamed judge also emphasised the fact that, when application is made for joinder of a party as a co-defendant, the purpose is clearly to avoid multiplicity of actions and to save costs by bringing before the court at one and the same time all those parties who have an interest in and are materially affected by the litigation. ...

In my opinion, at the leave to intervene stage, it is sufficient for the party seeking leave to intervene. So rely on allegations which, if they can be proved in the main action, would entitle him to succeed

[21] In determining whether to grant a party permission to intervene in terms of Rule 12 the court has a discretion. In my view the applicants have shown that they have a clear interest and that they have a prima facie case and that their application is bona fide and not frivolously made.

[22] I am of the view that the application to intervene should have succeeded in the absence of the plaintiff agreeing to settle the childrens claim for maintenance.

The issue of the defendant's claim for maintaince

[23] The defendant gave evidence to the effect that she required a sum of R116 717,81 per month as reflected on a schedule of expenses listed on pages 126-130 of bundle C Mrs W was cross-examined on these expenses and it appeared that although her monthly bond repayment in respect of the Heroldsbaai property amounted to R6 203 28 she was claiming an amount of R10 000 00 as she intended to pay the outstanding bond off quicker. It was put to her that she was claiming an excessive amount which she expected Dr W to pay for. It was also put to Mrs W that the plaintiff was prepared to settle her credit card expenses which she listed under item 2.7 on page 127, as well as the amount for the medicine expenses for which she took an overdraft with Nedbank. The Plaintiff also agreed to pay the car premiums fisted under item 2.13 until the vehicle was fully paid. The plaintiff undertook to have the vehicle registered into Mrs W name upon payment of the final instalment.

[24] An amended list of expenses contained additional items which were not on the original list of expenses (pages 126-130) was handed in as exhibit M. The new items appear as items 2,26 up to 2,30 on exhibit M Mrs W could not produce any independent vouchers to justify item 2,26 ; 2-27. She stated that these expenses were paid by using her credit cards.

[25] Mrs W owned Old Mutual shares amounting to approximately R100 000.00 and she also owned unit trust to the value of R 295 613.89.

It was suggested that she should pay an amount of R300 000.00 towards reducing the outstanding bond on the Heralds Bay property. If an amount of R300 000.00 were to be paid the monthly bond repayment on the property would be R1 200,00 as opposed to R6 203,28, Mrs W's was initially opposed to this idea however she ultimately relented to this suggestion.

[26] Mrs W testified that she enjoyed three local holidays annually. She spent a week at Sun City as she owned a time share there; a week at Kruger Lodge and she also spent time with the children at Herolds Bay. In addition to these holidays they also went a few times abroad. They went as a family to Disney world in Florida, Or W paid for the airline tickets whilst Mrs W paid for the accomodation. They also went twice to the Far East and two of three times to England during the marriage.

[27] An amendment sought by the defendant was granted to the effect that the defendant was claiming an amount of R85 000.00 per month as permanent maintenance (until she died). This view persisted well into cross-examination of Mrs W until a tender was made on her behalf to the effect that she would settle her claim for the sum of R50 000,00 per month maintenance fora period of five (5) years.

[28] I do not propose to deal with ail the aspects on which the defendant was cross-examined. As a consequence of the tender made by the defendant

referred to supra the cross-examination of Mrs W was reduced to a great extent.

[29] The defendant closed her case. Ms Veldsman handed in a tender on behalf of the plaintiff. This tender was marked as exhibit. The plaintiff thereafter closed his case without testifying. The long and short of the plaintiff's tender amounted to him agreeing to pay an amount of R45 000.00 per month to the defendant for a period of 54 months. In addition thereto he agreed to pay the defendant's motor vehicle premiums until it was fully paid and the vehicle is registered into her name. He also agreed to pay an amount of R2 000.00 per month towards for Johannes Magope salary. He agreed that the defendant could live in the Weavind Park property and undertook to pay the bond premium in respect of the property, the rates and taxes as well as the maintenance in respect of the property. Although the defendant would receive R45 000.00 per month she would receive additional benefits to the tune of R5 266 02 per month. This amount does not include the rates and taxes and maintenance for the property.

[30] The issues between the parties had been substantially narrowed in that the plaintiff tenders an amount of R45 000,00 per month towards the defendant as maintenance for a period of 54 months, whereas the defendant seeks a sum of R50 000,00 per month as maintenance for 5 years,

[31] Mr Smith submitted that the plaintiff generated an income of R4 373

008.61 over a ten month period between January 2006 and October 2008. The defendant would have received half of that total during that period. On average an amount totalling R218 650,30 per month, If one were to take into account what the plaintiff's attorney in a letter dated 27 October 2008 [marked LWS 7 in the urgent application in case number 325058/08] at para 7 thereof stated:

" u klient het deurentyd 'n inkomste verdien vanuit haar bestuursfunctie van apteek. gebaseer op die wins van die apteek. bgreken teen 35% van die omset (omset wissel tussen R140 000- R180 000)"

The profit would amount to R76 527 .65 namely 35% of R218 650.43. He submitted that at the worst the average income generated in the chemist in terms of plaintiff's letter referred to above would therefore be R160 000.00. and the profit at 35% amounts to R56 000,00.

He submitted that the amount of R50 000,00 which Mrs W claimed was therefore a fair and reasonable amount

[31] Mr Smith in his heads of argument relied upon the matter of *Gasso v Gasso* 1967 (1) SA 48 (C) at 56 C-E Berman J stated that:- *it may well be. and it has been stated (see example Hahlo (op cit at 361) that a divorced wife cannot expect to enjoy the same standard of living which she had before divorce., because the divorced husband has two homes to maintain where formerly he*

had only one. Where, however, as here, no economy need be practised by the divorced husband (for- as will be shown later in this judgment- defendant is a man of substance who can well afford to maintain two homes to the same standard at which he previously maintained the common home). There is no reason why plaintiff and the minor children should not continue to live every bit as well they have done in recent years. As will be seen, there is no good reason why plaintiff should not keep her house (and her car) and enjoy in the future the same high standard of living as that for which she and Defendant has striven from the inception of the marriage and had latterly achieved"

[32] Gasso's case is relevant to this matter. It was submitted on behalf of the plaintiff that he was not the type of person who was not prepared to pay maintenance which would allow the defendant to maintain a standard that she is accustomed to. or to put it differently that the plaintiff wants the defendant to lead a parsimonious lifestyle different from that which they enjoyed during the subsistence of their marriage Notwithstanding the Plaintiff not testifying I did not gain the impression that he was trying to do the defendant in or trying to undermine the payment of maintenance to the defendant Clear examples of this are that he agreed that the defendant could live in the Weavind Park property for 5 years or even a longer period at her election. Whereas the defendant claimed an amount of R17 000 per month to hire a home similar to that which they were accustomed to. Defendant reflected a monthly amount of R10 600 in respect of

monies she owed to various banks for her credit card expenses (see 2.7 on page 127). The plaintiff immediately tendered to pay all the defendant's credit expenses A further example being in respect of the overdraft facility which the defendant took out with the bank to procure medicines for the pharmacy which she owed and was paying off.

He agreed to immediately take over the debt and free the defendant from that obligation (see 2.7 the amounts of R6 520 and R2187).

[33] The defendant initially claimed an amount of R25 000,00 per month for life. This amount was amended to R85 000.00 maintenance per month for life During cross-examination when the plaintiff agreed to pay certain expenses such as the credit card payments; permit the defendant to live in the Weavindpark house, pay the amount owing in respect of the overdraft facility the defendants claim invariably was reduced to R54 456,15 per month (see exh M). Ultimately the defendant was prepared to settle this matter on the basis that she receives a sum of R50 000.00 per month as maintenance for five (5) years and that the plaintiff permits her to live in the house as he tendered and to pay for certain expenses such as the maintenance of the property and swimming pool and that he pays the gardener's salary When one takes into account the package which the defendant will receive in terms of the plaintiff's tender on a monthly basis, it equates to -

maintenance

R45 000,00

accomodation (rental value) 17 000,00

gardener's salary 2 000,00

R64 000.00

This figure does not include expenses such as payment for the vehicle and maintaining the property which the palintiff agreed to pay.

[34] Section 7 (2) of the Act states:

In the absence of an order made in terms of sub-section (1) with regard to the payment of maintenace by the one party to the other; the court may. having regard to the existing or prospective means of each of the parties, their respective earning capacities, financial needs and obligations, the age of each of the parties, the duration of the marriage, the standard of living of the parties prior to the divorce, their conduct insofar as it may be relevant to the breakdown of the marriage, an order

In terms of sub-section 3 and any other factor which in the opinion of the court should be taken into court, make an order which the court finds just in respect of the payment of maintenace by the one party to the other for any period until the death or re-marriage of the party in whose favour the order is given,

whichever event may first occur

The parties have lived together for the past 18 years and they are married for 22 years. It is clear that the plaintiff and defendant enjoyed a high standard of living. The question which needs to be asked is whether an amount of R45 000.00 per month would permit the defendant to maintain that standard which she was accustomed to.

The plaintiff is 66 years old whilst Mrs W is 62 years old, Mrs W has acquired a property in Herolds Bay valued between R4million and R5 million on which a very small bond is outstanding. In addition she has two properties which are fully paid valued at R900 000 00 (erf 378 216 Glenniqua Drive, Outeniqua Strand) and erf 354 Wapadrand valued at approximately R600 000.00

Her assets are valued conservatively between R5.5 m to R6.5 m. She also has certain investments and she is of the view that in 5 years time she would be able to retire and maintain herself.

[35] The amount of R45 000,00 per month relatively speaking is a considerable amount of money. Mrs W's was prepared to settle on maintenance for R50 000.00 per month. She is a benevolent and charitable person by nature and she is concerned about the well being of others. She pays towards the studies of the "swart *student*" (item 2.19 on page 128); towards her church; support towards

her aged mother; gives gifts to friends and family. This in itself is an admirable quality, however, her philanthropy cannot be incurred at the expense of her husband. If she wants to give charity and be benevolent than it would only be proper and fitting if those expenses were paid from her proceeds. It would be unfair and unreasonable for Dr W's to pay for those expenses, If he were to pay for those expenses than he would be the benefactor and not the defendant.

[36] When the court makes an award for maintenance in terms of section 7(2) of the Act it must make an order which is "*just*". This implies that the court should be fair to both parties bearing in mind those factors enumerated in the section.

The question of costs

[37] The parties each argued that the opposite party should pay the costs of the action. Ms Veldsman submitted that the defendant initially sought R85 000 per month for life as maintenance, Eventually she agreed to settle for the sum of R50 000 per month for a period of 60 months. She submitted that the plaintiff should be awarded costs as the defendant's case was substantially reduced, namely from one of permanent maintenance to one of temporary maintenance, She referred to the matter of *Botha v Botha* 2009 (3) SA 89 (W) where Satchwell J ordered Mrs Botha to pay the cost of the matter,

[38] Mr Smith on the other hand submitted that the plaintiff was not prepared to settle on the initial amount of R25 000 claimed, prior to the amendment, and that the defendant was compelled to proceed with trial Only as a consequence of the defendant proceeding with the matter was a tender ultimately made. He argued that the defendant was not prepared to pay maintenance to the children which necessitated an application being brought by them.

He argued that a proper costs order would be that the court orders the plaintiff to pay the cost of this trial and that the taxed costs awarded to him in respect of the urgent application be deducted from this amount.

[39] I am of the view that the defendant has succeeded substantially in her claim and that there is no reason why I should deviate from the rule that costs usually follow the result. Having said that, I am inclined to award costs to the defendant, however only up to the point of the plaintiff having made the tender.

[40] It is impossible to award an amount that would be precise to the point of absolute accuracy I am of the view that Mrs W's would adequately be able to maintain herself to the standard that she is accustomed to by making the following order.

[41] In the circumstances I make the following order:

1. A decree of divorce is granted;
2. The plaintiff will pay maintenance for the children born out of the marriage as follows:

2.1. S and N's university / tertiary tuition fees In the case of Simone until the end of 2010 and in Nicole's case until 2011;

2.2. L's school fees at Crawford College for the year 2009. The said fee would be paid directly by the plaintiff to the school concerned on demand;

2.3. L's tertiary education for his first undergraduate degree to any university / tertiary institution within the Republic of South Africa alternatively the equivalent amount for the costs of his study should he study at a university abroad;

2.4. The following payments would be made by the plaintiff directly to the children alternatively to the service providers :

2.4.1. L's school books and text book expenses on demand;

2.4.2. L's text book expenses in respect of his tertiary education on demand up to the completion of his first degree (with reference to prayer 2.3);

2.4.3. Nicole and Simone's text book fees in respect of their tertiary education on demand, These expenses will be paid by the plaintiff until they achieve their first degrees:

2.4.4. The plaintiff will pay for the childrens extra mural activities until each child in turn obtains his / her first degree;

2.4.5. The childrens gym fees on demand until each in turn obtains his/her first degree ;

2.4.6. plaintiff will pay the monthly instalments in respect of L's Peugeot 207 motor vehicle to wesbank until the vehicle is settled in full, whereafter the plaintiff will ensure that the vehicle is registered in L's name. The plaintiff will pay the costs for the transfer of the vehicle into L's name;

2.4.7. Plaintiff will pay for the insurance and maintenace of L's Peugeot 207 which shall include:

2.4.7.1. scheduled services;

2.4.7.2. 2 change of tyres:

2.4.7.3. change and repairs to brakes, switches and shock breakers upon

request and the plaintiff will pay the relevant service providers until the vehicle is registered into L's name:

2.4.8. The plaintiff will provide t with a sum of R2 500 per month in respect of pocket money. He will give the sum of R3 000 per month to S and similarly the sum of R3 000 per month to N. The amounts stipulated will be paid to them on or before the 3rd of each month The payments referred to herein will be paid to them until he/she attains his/her first degree

3. The defendant will reside in the property situated at Charles Jackson street, Weavindpark for a period of five (5) years from the date of this order or until L obtains his first degree at the University of Pretoria, whichever period is the longer.

4. The plaintiff will continue with paying the bond premiums in respect of the property referred to in para 3 above;

5. Plaintiff will pay the monthly instalments in respect of the Ford Territory vehicle which the defendant uses until the vehicle is settled in full with the finance company, Once the vehicle is fully paid the plaintiff will at his costs have the vehicle transferred into the defendant's name (defendant will acquire ownership thereof).

6. Plaintiff will pay the salary of Johannes Mogapa in the sum of R2000 per month directly to Johannes Mogapa until the services of the latter ends. This payment will commence from the 1 June 2009 and will continue on the 1st of each succeeding month until Johannes Mogopa services ends;

7. The defendant will pay the monthly water and electricity account in respect of the property at Charles Jackson street from the 1 June 2009;

8. the Plaintiff will pay the monthly rates and taxes in respect of the property situated at Charles Jackson Street from 1 June 2009;

9. the plaintiff will pay for the maintenance costs relating to the property situated at Charles Jackson Street, which costs shall include the costs of borehole, swimming pool and garden on demand and directly to the service providers concerned:

10. The plaintiff is directed to register the children as dependants on his Hospital plan with the medical scheme. He will pay for all reasonable medical expenses not covered in terms of the scheme directly to the service providers upon demand;

11. Plaintiff will retain Simon and Nicole on his medical scheme as dependants until end of 2010 alternatively for a further period as agreed between him and

Simon / Nicole;

12. Plaintiff will retain L on his medical sceme as a dependant until L completes his studies in South Africa. Should L study overseas the plaintiff will arrange to obtain some cover for L until he completes his first degree abroad;

13. Plaintiff is directed to pay the amounts owing by the defendant in respect of the following credit cards.

13.1. ABSA Credit Card

(Account NO:)

R21 586-32

13.2. NEDBANK Credit Card

(Acount No :)

R26 232-08

13.3. NEDBANK Amex Credit Card

(account No:)

R7 780-98

13.4. STANDARD BANK Credit card

(Account no:....)

R12 317-20

The plaintiff is given three months from 1 June 2009 within which he will settle the debt in respect of the credit cards amounts owing.

14. The plaintiff is ordered to settle the overdraft facility which is registered against the defendant's property situated at Wapadrgnd in the amount of R 148 380,12 within one month of the decree of divorce being granted. The plaintiff will settle this amount owing by the defendant to Nedbank in order to cancel the overdraft facility.

15. The defendant retain the proceeds of the insurance policy in the amount R121 696,00 which matured on 1 April 2009. In addition thereto the defendant will retain an amount of R299 101,89 in respect of the Old Mutual Shares, as well as Sanlam Shares in the amount of R96 604,20 as her sole and exclusive property.

16. The plaintiff is ordered to pay rehabilitative maintenance to the defendant in the amount of R45 000,00 per month for a period of 54 months. The first payment to be paid by the plaintiff to the defendant on/or before the 7th June 2009. Each subsequent payment to be paid not later than the 7th of each month until expiration of the 54 months.

17. Neither the plaintiff nor the defendant will approach this court alternatively

any other court with competence jurisdiction for an Order either increasing or decreasing the maintenance.

18. On termination of the five (5) year period and after three months of vacating the premises situated at Charles Jackson Street, Weavind Park, plaintiff will pay the sum of R1 000 000:0D to the defendant.

19. The plaintiff is ordered to pay the defendant's costs up to the date of the tender made by the plaintiff. Such costs to include the costs of senior counsel

For the Plaintiff: Adv Veldsman- instructed by Labuscgane Attorneys Pretoria

For the Defendant: Adv. D Smith SC - Instructed by Schoeman & Associates,
Pretoria

Judgment delivered: 22 June; 2009