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IN THE HIGH COURT OF SOUTH AFRICA

NORTHWEST DIVISION-MAHIKENG

Reportable / Not Reportable

Case No: 913/2022

In the matter between:

I[...] P[...]	PLAINTIFF
and	
C[...] P[...]	FIRST DEFENDANT
C[...] P[...] N.O.	SECOND DEFENDANT
I[...] P[...] N.O.	THIRD DEFENDANT
L[...] P[...] N.O.	FOURTH DEFENDANT

Coram: Maree AJ

Heard: 11 November 2025, 20 January 2026, 22 January 2026, 25 - 27 March 2026, 3-5 June 2026, and 8 July 2026

Delivered: This judgment was handed down electronically, circulated to the parties' representatives via email, uploaded to CaseLines, and released to SAFLII. The date and time for the handing down of the judgment are deemed to be 10h00 on 29 October 2026.

JUDGMENT

Maree AJ

Introduction

[1]. This is an action for divorce instituted by the plaintiff against the first defendant. Ancillary relief is sought against the second to fourth defendants, the trustees of the P[...] Family Trust, for a declaration that the value of the trust be included in the first defendant's estate for purposes of calculating the accrual.

[2]. At the close of argument the parties were *ad idem* that:

a. the marriage has broken down irretrievably.

b. the parties' major children, N[...] and E[...], are in need of maintenance.

c. the marriage is subject to the accrual system and the estates fall to be dissolved on that basis.

d. The issues for determination are:

i. the duration and quantum of maintenance payable to the plaintiff.

ii. whether the plaintiff is entitled to additional claims for medical-aid contributions and the replacement of a motor vehicle every five years.

iii. the proper valuation of the first defendant's estate for accrual purposes, specifically:

1. the value of the shares in K[...] Sentrum (Pty) Ltd;

2. the inclusion of the value of a Bitcoin holding and provident fund;

3. whether capital gains tax is deductible; and

4. whether an amount of R1,000,000.00 paid into a Money Maximiser account in the name of the parties' son forms part of the first defendant's estate.

iv. whether the value of the P[...] Family Trust must be taken into account as an asset of the first defendant; and

v. costs of suit.

[3]. Before I deal with the evidence in this matter, I set out the relevant common cause issues.

Common Cause Issues

[4]. The parties were married on 16 March 2002, out of community of property with the accrual system. The parties' antenuptial agreement and the values portrayed therein are common cause. It is furthermore common cause that the accrual is applicable to the dissolution of the marriage relationship between the parties.

[5]. From the parties, two children were born, a daughter named E[...] and a son named N[...]. Both children have reached the age of majority, but are still dependent and in need of maintenance.

[6]. The parties do not dispute that the marriage relationship has irretrievably broken down, although each party assigns blame to the other and offers different reasons for the breakdown.

[7]. The Court has jurisdiction to adjudicate the matter.

[8]. The first defendant appointed Mr HW Regenass (Chartered Accountant) and Mr JP Venter (Industrial Psychologist) as experts. Neither expert's expertise is in dispute.

[9]. The report of Mr Venter is accepted by the plaintiff, albeit not in its entirety.

[10]. Mr Regenass prepared a calculation of the accrual. Each entry used in the calculation is marked chronologically from 1 to 37. Save for items 31 (the value of the shares in K[...] Sentrum (Pty) Ltd) and 32 (the deduction of capital gains tax), and the limited disputes concerning the value of the first defendant's estate as identified above, the plaintiff does not challenge the balance of the calculation.

Evidence

Summary of the Plaintiff's Relevant Evidence

Chief examination:

[11]. At the commencement of the trial, the plaintiff was an unemployed 49-year-old woman.

[12]. The plaintiff confirmed that she was married to the first defendant and referred to the marriage certificate and antenuptial contract in support of her evidence. Neither document was disputed. The commencement values recorded in the antenuptial contract were R40,000.00 for the plaintiff and R300,000.00 for the first defendant.

[13]. The parties were married on 16 March 2002. Following the birth of their first child in 2004, the plaintiff ceased working and became a full-time mother and homemaker. She continued in that role for

approximately 22 years, during which the first defendant was the sole breadwinner.

[14]. The first defendant's principal source of income was derived from a Pick 'n Pay franchise in which he participated. The franchise was held by K[...] Sentrum (Pty) Ltd ('K[...] Sentrum'), in which the first defendant held a 29% shareholding.

[15]. The plaintiff testified that, although she was not employed and managed the household, she received a monthly income of approximately R30,000.00 from K[...] Sentrum.

[16]. According to the plaintiff, the parties enjoyed a high standard of living throughout the marriage, including a large family home with a swimming pool and annual overseas holidays.

[17]. The parties' daughter (a student at North-West University, Potchefstroom) initially resided with the plaintiff but has since moved to her own dwelling near the university. The parties' son (also a student at North-West University, Potchefstroom) lived with the first defendant but has recently also moved to his own dwelling near the university.

[18]. The plaintiff testified that the marital relationship between her and the first defendant had broken down irretrievably. In summary, she attributed the breakdown to the following:

a. During 2017 and 2018, the relationship between the parties became increasingly distant, and the first defendant began spending extended periods away from the family home.

b. In 2020, the plaintiff discovered that the first defendant had an active Tinder account (Tinder being an online dating platform). She made this discovery after accessing the contents of his phone while he was in the shower. After the first defendant returned from a holiday on which the plaintiff had not accompanied him, she found condoms in his luggage. She also discovered an email in which he expressed an intention to amend his will so as to limit her rights in relation to the matrimonial property.

[19]. The plaintiff testified that, at 49 years of age, her prospects of re-entering the workforce are minimal. She attributed this to her outdated qualifications, limited practical work experience and skills, and 22-year absence from the teaching profession. She further testified that her thyroid had been removed and that she continued to experience anxiety, depression, and difficulty concentrating, which she associated with the breakdown of the marriage. In support of her evidence regarding her limited employment prospects, she described her unsuccessful attempts to secure stable employment since May 2022. She testified that she had performed pro bono work at Hoër Volkskool in Potchefstroom and secured a temporary contract in Beaufort West in 2025. Regarding her attempts to secure further employment, she testified that she had sent out approximately 20 copies of her curriculum vitae but had been unsuccessful. She also identified changes in the school system and curriculum as reasons why she could not find suitable employment.

[20]. The plaintiff testified that she was assessed by Mr Venter, the first defendant's industrial psychologist. She testified about the information

she provided to him, including, inter alia, a copy of her curriculum vitae, a list of references, and a completed questionnaire. She had two telephonic sessions with Mr Venter, lasting 90 and 50 minutes respectively. She complained in particular about the second session, during which, she said, Mr Venter was rude and strict. Mr Venter, however, apologised for his behaviour.

[21]. The plaintiff persisted in her evidence that her age counted against her in obtaining future employment.

[22]. In support of her claim that the assets of the P[...] Family Trust ('the trust') should be included in the accrual, the plaintiff testified as follows:

a. The trust was established after her brother-in-law, the fourth defendant, instructed her to sign the trust documents and explained that its purpose was to protect the family home.

b. Although she had been a trustee since the trust's establishment in 2006, she was a trustee in name only. She had never attended a trustees' meeting, signed minutes or resolutions, or been consulted about any decision.

c. The first defendant exercised complete control over the family finances and managed the trust without her knowledge or input. This included decisions relating to the acquisition of shares in Interactive Trading (Pty) Ltd and Strawberry Twister (Pty) Ltd. She testified that the first defendant initially used Salvus Trading (Pty) Ltd, a company of which she was the sole

director but into whose affairs she had no insight, to issue false invoices to K[...] Sentrum, the holding company of the Pick n Pay franchise in which he held a 29% shareholding, thereby supplementing his income. She stated that the first defendant subsequently caused the trust, acting unilaterally, to issue similar invoices to K[...] Sentrum. According to her, the first defendant admitted that this conduct amounted to money laundering.

[23]. She further testified that the first defendant paid R1,000,000.00 into their son's Money Maximiser account for no apparent reason, of which she was not aware. This amount was also not included in Mr Regenass's calculation.

Cross-examination:

[24]. Regarding the breakdown of the marriage, the plaintiff testified in cross-examination that:

a. She conceded that her conduct in accessing the first defendant's phone while he was showering violated the trust in their relationship.

b. She further conceded that she had involved the parties' then-16-year-old daughter in the marital conflict over the first defendant's Tinder account.

c. The plaintiff testified about a family meeting with the first defendant, at which their daughter was present. During the

meeting, the first defendant apologised for his conduct and was forgiven.

d. The plaintiff conceded that, regarding the condoms found in the first defendant's bag, he had informed her that a friend had placed them there as a prank. It was further put to her that the first defendant's friends frequently played such pranks on him, including placing elephant dung in his suitcase on a previous trip. The plaintiff could not recall such an event.

e. The plaintiff further conceded that the family home had always been held by the trust and had never been transferred from one entity to another.

[25]. The plaintiff conceded that the parties did not replace their motor vehicles every five years during the marriage.

[26]. The plaintiff conceded that she was capable of working, but testified that her lack of current experience and skills made it difficult for her to cope in the workplace.

[27]. She further testified that, notwithstanding her 22-year absence, Hoër Volkskool was satisfied with her qualifications when she was appointed, on a pro bono basis, to teach Life Orientation. In addition, the school principal gave very favourable testimony concerning her employment there. The same was admitted in respect of the school in Beaufort West.

[28]. The plaintiff accepted a tender made on behalf of the first defendant to enrol her in a 12-month skills-upgrading course at the first defendant's expense.

[29]. She persisted in her evidence that she had neither participated in nor exercised any influence over the management of the trust or Salvus Trading.

[30]. She conceded that she had appointed her own experts to value the estate and had declined to furnish their report to the first defendant because she was dissatisfied with its conclusions.

[31]. The plaintiff was re-examined, but nothing material turned on the evidence presented during re-examination.

[32]. The plaintiff called no other witnesses in support of her case.

Summary of the First Defendant's Relevant Evidence

Examination-in-chief:

[33]. The first defendant confirmed that two children were born of the marriage, both of whom have reached the age of majority.

[34]. The parties' son, N[...], resided with the first defendant but has since moved to a dwelling near North-West University, Potchefstroom. The first defendant provides for all his needs and, through the trust, pays

R18,000.00 per month towards his maintenance. The plaintiff makes no contribution to his maintenance.

[35]. Regarding the parties' daughter, E[...], the first defendant testified that the trust pays her maintenance in the amount fixed in the Rule 43 application. He confirmed that, for the past two years, their relationship had broken down. The breakdown began when she became involved in the marital disputes between the first defendant and the plaintiff. Notwithstanding the breakdown in their relationship, he would continue paying the maintenance amount awarded in the Rule 43 application until the end of 2027, when she was expected to graduate.

[36]. The first defendant confirmed that the marital relationship had broken down irretrievably, but attributed the breakdown to the following:

a. The first defendant regarded the plaintiff's conduct in involving the parties' then-16-year-old daughter in the dispute over his Tinder account as unacceptable. According to him, this conduct led their daughter to cease communicating with him entirely.

b. The parties had not shared the same marital bed since 2021.

c. The plaintiff moved out of the marital home in May 2022.

[37]. Regarding the plaintiff's claim for maintenance, the first defendant testified that:

a. He was 57 years old and could continue working for approximately three to five years, after which he would retire

and receive a pension. His pension would comprise a provident fund, the value of the Pick n Pay shares, and an investment at ABSA Bank.

b. Before the marital relationship broke down, the plaintiff was paid a salary of R29,000.00 per month by K[...] Sentrum.

c. K[...] Sentrum's Pick n Pay income had been significantly reduced, resulting in a decrease in the first defendant's salary from R59,911.25 to R38,365.00 per month.

d. He was willing to pay rehabilitative maintenance to the plaintiff in the amount fixed in the Rule 43 application, namely R43,853,00, until December 2027. In addition, he tendered to pay for a 12-month skills-upgrading course to enable her to return to the labour market.

[38]. Regarding the plaintiff's claim for a new motor vehicle, the first defendant testified that only four vehicles had been purchased during the 22-year marriage: two new and two second-hand.

[39]. Regarding the trust:

a. The first defendant described it as an informal family trust primarily intended to protect the family home from business risks.

b. The trust property consisted of the dwelling house, a 10% shareholding in Interactive Trading (Pty) Ltd (the holding

company from which Pick n Pay rented), and a 20% shareholding in Strawberry Twister (Pty) Ltd (the holding company of the solar-power installation at the Pick n Pay centre). The shares in Interactive Trading were purchased by the first defendant using his personal funds and through his loan account. The shares in Strawberry Twister were purchased using his personal funds and funds loaned to him by his brother.

c. He further testified that the plaintiff was aware of the trust's operation and that they had informal discussions about it.

d. He testified that he was responsible for preparing the trust's invoices and making payments from the trust. He further conceded that the scheme of issuing invoices from Salvus Trading and, later, from the trust to K[...] Sentrum was intended to supplement his income. He described this, however, as a normal practice among the partners to reduce the company's profitability for tax purposes and generate cash flow.

e. He sought the removal of the plaintiff as trustee and trust beneficiary because of a serious breach of the relationship of trust between them.

[40]. He further testified that the share price of K[...] Sentrum had declined because Pick n Pay franchises were experiencing financial difficulty across South Africa, with 56 franchises having closed in 2025. He also testified that he would need to sell some of his shares to pay the plaintiff her accrual.

Cross-examination:

[41]. The first defendant admitted that the plaintiff received a salary of R29,000.00 from K[...] Sentrum.

[42]. In cross-examination, the first defendant testified as follows regarding the trust:

a. The plaintiff had never performed any duties as trustee.

b. There had been no formal resolution by the trustees. The first formal resolution was adopted only after the plaintiff left the marital home.

c. He was responsible for the trust's invoicing and payments.

d. He had made decisions regarding the acquisition of assets, such as shares in Interactive Trading and Strawberry Twister, and loans to other entities without formally consulting the trustees.

e. The invoicing scheme, whereby the trust invoiced K[...] Sentrum (previously by Salvus Trading), enabled the partners to share in the profits and reduce the company's profitability.

f. He and the plaintiff could not work together, and the plaintiff did not trust him. In addition to this evidence, the factual allegations in his counterclaim regarding why the plaintiff should be removed as trustee were put to him during cross-examination, and he confirmed them.

[43]. Regarding the value of the shares held in K[...] Sentrum, the first defendant confirmed that he had previously used multipliers of 2,0 and 2,4 to calculate their value. He conceded that these multipliers were much higher than the 0,98 multiplier used by his appointed expert for the same purpose.

[44]. The first defendant was re-examined, but nothing material turned on his evidence.

Summary of the Evidence of the First Defendant's Expert Witness, Mr H W Regenass (Chartered Accountant)

Examination-in-chief:

[45]. Mr Regenass is a qualified chartered accountant, having qualified in 1984. He lectured at the University of Pretoria and was promoted to Associate Professor. He later left academia and established his own practice. He has been a member of SAICA for the past 40 years and has conducted forensic and special investigations for at least 30 years.

[46]. Mr Regenass was provided with source documents to calculate the accrual. These included bank account records, investment account records, annuity investments, the financial statements of K[...] Sentrum, and the financial statements and tax records of the P[...] Family Trust.

[47]. Mr Regenass compiled two reports, the second of which was an updated report. For the updated report, and in valuing the K[...] Sentrum shares, he used the company's 2025 financial statements.

[48]. Regarding the valuation of the first defendant's shares in K[...] Sentrum:

a. Mr Regenass used the guideline method, as is normally applied when Pick n Pay franchises change hands. Under this model, monthly turnover is multiplied by a factor that changes over time in response to economic conditions. The guideline he received from Pick n Pay was to apply a factor of 0,98. Applying this factor and the first defendant's shareholding percentage, he arrived at a value of R4,166,484.00.

b. Mr Regenass testified that several methods could be used to determine the value of the shares, apart from the method used by Pick n Pay. These methods could be categorised into two approaches: an income approach and an asset approach. Each approach comprised different valuation methods. Under the income approach, the most common methods were the discounted cash-flow method and the market approach. The discounted cash flow method projected the company's future income and discounted it at a fair rate of return, depending on the industry and the risks involved. Different industries, however, developed their own valuation models, which were usually simple and effective.

c. To conduct a reasonableness test, different models were tested against one another.

d. Mr Regenass used the model developed by Pick n Pay because it reflected what had actually occurred in the market and was considered the most accurate, as that method had been used in previous transactions. He also conducted a reasonableness test using the discounted cash-flow method. Under that method, the value was approximately R3,600,000.00, which was lower than the value calculated using the industry method.

e. He also deducted capital gains tax when calculating the value of the shares. He did so because, he testified, this accorded with the applicable financial standards used in South Africa. Capital gains tax is a deferred tax that becomes payable on the sale of the asset, and a provision should therefore be made for it to avoid overvaluing the asset. The liability would not disappear: it would become payable either upon sale of the asset or upon death. Because the first defendant indicated that he would have to sell some of his shares to pay the accrual, capital gains tax had to be accounted for.

Cross-examination:

[49]. Mr Regenass testified that he had not calculated the value of the trust because he had been instructed that it did not form part of the accrual. He further testified that, should the trust be found to form part of the accrual, his calculation could be adjusted to include its value.

[50]. During cross-examination, Mr Regenass conceded that he had not considered or investigated whether the trust was merely the alter ego of the first defendant.

[51]. He agreed that, if K[...] Sentrum's expenses were inflated, this would reduce its profit and, in turn, the value of the shares.

[52]. He conceded that the turnover-based multiplier of 0,98 was derived from information provided by the first defendant, who had obtained it from a Pick n Pay franchise manager. Mr Regenass conceded that he had not verified its accuracy and had no direct knowledge of the underlying franchise sales.

[53]. It was put to Mr Regenass that he had merely accepted information obtained indirectly from the franchise manager. He responded that he had not merely accepted it but had compared it with the discounted cash flow method, using the February 2025 financial statements. On comparison, the Pick n Pay method was more favourable because it produced a higher value.

[54]. Mr Regenass testified that, regardless of the scenario or circumstances, the reasonableness test he applied using the discounted cash flow method was based on the actual income stream of the specific store. Applying this method to the Pick n Pay store in Potchefstroom yielded a less favourable result than the industry method used by Pick n Pay.

[55]. Regarding capital gains tax, he testified that he had included it not because the first defendant indicated he would have to sell some of his shares, but because the asset was subject to capital gains tax.

[56]. He further conceded that the industry norm for multipliers used to determine the value of company shares was between 2,00 and 2,5.

[57]. Mr Regenass testified that although he had not been instructed to include the trust in the accrual, its calculated value amounted to R2,900,000.00.

[58]. He acknowledged that his report did not include the first defendant's provident fund, valued at R70,000.00, or a Bitcoin asset valued at R60,000.00, because he became aware of their existence only at trial.

[59]. Mr Regenass was re-examined, but nothing material turned on his evidence.

Summary of the Evidence of the First Defendant's Expert Witness, Mr J P Venter (Industrial Psychologist)

Examination-in-chief:

[60]. Mr Venter is an industrial psychologist and has been involved in medico-legal court work since 2009.

[61]. The purpose of his report was to assess the plaintiff's career prospects and employability.

[62]. Mr Venter described the process used to assess the plaintiff. It included a questionnaire and two telephonic interviews. The questionnaire was adapted from a form ordinarily used for motor vehicle accident victims

and was intended to obtain a historical overview of the plaintiff's qualifications, background, family background, and hobbies. The information supplied in the questionnaire was sufficient for him to form a general view, while information omitted from it was obtained during the consultation process. According to Mr Venter, he obtained sufficient information from the plaintiff throughout the process.

[63]. Mr Venter had two consultations with the plaintiff. The second was difficult because some of the issues discussed triggered emotional responses, and he struggled to obtain direct answers from the plaintiff. Nevertheless, he testified that this did not materially affect the outcome of his report.

[64]. Regarding the plaintiff's possible career prospects, Mr Venter testified that he reached his conclusion after considering her completed questionnaire, her background, and consultations with colleagues and her clinical psychologist.

[65]. Mr Venter indicated that remedial education would suit the plaintiff, but that ordinary teaching would also suit her if she was not interested in remedial education.

[66]. When asked about the effect of the 12-month upgrading course tendered by the first defendant, Mr Venter described it as an excellent opportunity that would give the plaintiff a strong prospect of improving her skills.

[67]. When the plaintiff's view of her employability was put to him—namely, that her age counted against her and that she had been outside

the education system for 22 years—Mr Venter referred to her more recent employment at Hoër Volkskool and in Beaufort West and indicated that she was able, and would be able, to obtain employment. He concluded that, given time and additional training, the plaintiff was likely to secure employment and earn the income postulated in his report, namely a mid-level income of R28,000.00.

Cross-examination:

[68]. Mr Venter testified that, despite the difficulties the plaintiff experienced during her employment in Beaufort West, she nevertheless produced acceptable work.

[69]. It was put to Mr Venter that the postulated earnings of R28,000.00 per month were speculative. He denied this, stating that the postulation was not speculative but represented a likely scenario.

Re-examination:

[70]. In re-examination, Mr Venter confirmed the view of the plaintiff's clinical psychologist, Ms Kirsten, that, given appropriate recovery time and professional support, the plaintiff would be a suitable candidate to undertake training and remedial teaching, and to seek and secure employment.

Discussion:

Irretrievable Breakdown of the Marriage Relationship

[71]. The parties do not dispute that the marriage relationship has irretrievably broken down. Having heard the evidence of both parties, I am satisfied that the marriage relationship has broken down irretrievably.

Maintenance of the Major Children

[72]. Both N[...] and E[...] are major, but it is undisputed that they still need support as they complete tertiary education and become self-supporting.

[73]. The plaintiff's evidence as to E[...]'s needs was seriously challenged during cross-examination. However, before the trial concluded, the first defendant tendered payment to E[...] of the amount awarded to her in the Rule 43 application, namely R23,000.00 per month. In the absence of further evidence, this Court can do no better than to rely on the evidence presented during the Rule 43 application and the need established thereby.

[74]. It was not disputed that the first defendant is solely responsible for N[...]' care. There was also no evidence tendered that the first defendant will derelict his duties towards N[...]. I therefore do not find it necessary to make a monetary order for payment of maintenance to N[...].

[75]. The situation concerning E[...] is somewhat different. The first defendant and E[...] have no relationship. It is undisputed that E[...] requires maintenance and that the first defendant tendered payment of R23,000.00. It will, therefore, be necessary to make an order to this effect.

Maintenance for the Plaintiff

[76]. It is not disputed that the plaintiff is in need of maintenance. What is disputed is the duration and quantum thereof.

[77]. The plaintiff currently receives R43,853.00 per month under a Rule 43 order. She testified that this amount meets her present needs. The first defendant has tendered to fund a 12-month skills upgrade course and to continue paying that sum until the end of 2027.

[78]. The plaintiff contended that, by reason of her age (49), her long absence from the teaching profession (22 years), and alleged physical and psychological difficulties, she is unemployable and requires lifelong maintenance. The plaintiff's evidence was that, since 2022, she has attempted to secure stable employment but has failed to do so. The plaintiff only managed to secure a teaching position at Hoër Volkskool on a pro bono basis and temporary employment in Beaufort West in 2025. In addition, the plaintiff testified that notwithstanding several attempts to find stable employment, she failed to do so. The plaintiff is of the view that her prospects of re-entering the workforce are minimal

and that time is against her. The plaintiff, however, presented no expert evidence to substantiate the alleged health impediments and their effect on her employability.

[79]. The first defendant called an industrial psychologist, Mr Johannes Petrus Venter. Mr Venter's evaluated the plaintiff and his opinion is that the plaintiff is capable of earning a mid-level income of approximately R28,000.00 per month after a 12-month upskilling programme, and that she should obtain employment within 3 to 6 months of completing that programme. Although the plaintiff disagrees with Mr Venter's opinion, she failed to present any expert evidence to contradict his opinion. It is trite that a Court is not bound by an expert's evidence. However, I find no reason to depart from Mr Venter's expert opinion. Mr Venter's expertise was not challenged, and his view that the plaintiff could obtain employment was bolstered by the plaintiff's evidence that she secured employment, albeit temporarily and pro bono.

[80]. Section 7(2) of the Divorce Act[1] requires the Court, when considering a maintenance order, to have regard, inter alia, to the parties' existing and prospective means, their earning capacities, and the period for which maintenance should be paid. The purpose of rehabilitative maintenance is to enable a spouse who has been economically disadvantaged by the marriage to become self-supporting within a reasonable time.

[81]. On the evidence, I am not persuaded that the plaintiff is permanently unemployable. The first defendant's tender of a twelve-month skills

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[1] Act 70 of 1979.

course at the North-West University (or another suitable tertiary institution), coupled with continued payment of R43,853.00 per month, affords her a realistic opportunity to re-enter the labour market. I am, however, mindful that, according to Mr Venter, the plaintiff will most likely obtain employment within 3 to 6 months after completing a twelve-month skills course. I am of the view that this delay in obtaining employment should be taken into account when determining the period for which the first defendant should pay rehabilitative maintenance. I am of the view that the first defendant should pay the plaintiff rehabilitative maintenance until six months have elapsed after the completion of the one-year skill upgrade course. Premised on the evidence, this will entail payment of rehabilitative maintenance until the end of June 2028.

[82]. The plaintiff's claim for the provision of a new motor vehicle every five years is not supported by the evidence. The first defendant's uncontradicted testimony is that the parties' lifestyle during the marriage did not include the regular purchase of new vehicles at five-year intervals.

[83]. The plaintiff's claim for an additional medical-aid contribution is likewise unsustainable. Her legal representative correctly conceded that the Rule 43 amount of R43,853.00 already includes provision for medical aid. The plaintiff herself described that amount as acceptable. No additional medical-aid order is therefore warranted.

Accrual Calculation

[84]. The remaining disputes concern the proper composition and valuation of the first defendant's estate.

Ad Shares in K[...] Sentrum (Pty) Ltd.:

[85]. Mr Regenass valued the shares by applying a multiplier of 0.98 furnished by the Pick 'n Pay franchisee and tested against independent reasonableness checks. The plaintiff contended that a multiplier of 2.0 (said to be the industry standard and previously used by the first defendant) should be applied.

[86]. Mr Regenass explained that the lower multiplier reflects current economic conditions affecting Pick 'n Pay franchises and that his reasonableness tests confirmed the fairness of the figure. The plaintiff obtained her own valuation but elected not to place it before the Court or to call her valuator. In the absence of contradictory expert evidence, I accept Mr Regenass's valuation as fair and reliable.

Ad Bitcoin and Provident Fund:

[87]. The value of the first defendant's Bitcoin holdings and his provident fund must be included in the calculation of his estate. There is no legal basis for their exclusion.

Ad Capital Gains Tax:

[88]. The first defendant contended that the capital gains tax should be deducted because he intends to sell his shares to pay the plaintiff the

accrual. The plaintiff contends otherwise, i.e. that capital gains tax is not deductible.

[89]. To my understanding, if there is credible evidence that the shares will be sold, transferred, or realised as part of the divorce arrangements, the tax consequences may be material to the valuation or net estate calculation. The Court should then examine the actual transaction contemplated, the applicable tax provisions, the timing and the evidence supporting the calculation[2].

[90]. The first defendant testified that he would need to sell some of his shares to satisfy the plaintiff's accrual claim. No evidence was provided as to how many shares he would need to sell, when he intends to sell them, or how the transaction will be structured. Irrespective of the limited evidence regarding the possible sale of shares, the first defendant contends that capital gains tax should be deducted from the total value of the shares (rather than the portion he intends to sell) in K[...] Sentrum.

[91]. Premised on the lack of evidence before this Court, I find that capital gains tax is not deductible from the shares' value for accrual purposes; no such liability has been established. The deduction is accordingly disallowed.

Ad R1 000 000 Paid Into the Money Maximiser Account:

[92]. The plaintiff contended that an amount of R1,000,000.00 paid by the first defendant into a Money Maximiser account in the name of the

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2 S.L.M. v H.A.C (18281/2021) [2025] ZAGPJHC 687 (19 June 2025)

parties' son should be treated as the first defendant's asset. The first defendant's counsel put certain propositions to the plaintiff in cross-examination concerning this payment, but the first defendant himself never testified to any agreement that would exclude the sum from his estate. In the absence of such evidence, I find that the R1,000,000.00 forms part of the first defendant's assets for accrual purposes.

Ad The P[...] Family Trust:

[93]. One of the central questions is whether the assets of the P[...] Family Trust must be treated as assets of the first defendant for the calculation of the accrual.

[94]. In Badenhorst v Badenhorst[3] the Supreme Court of Appeal held that the assets of a trust may be taken into account in the division of matrimonial property where the claimant proves that the other spouse exercised *de facto* control over the trust so that, "but for the trust, [he] would have acquired and owned the assets in his own name." The Court must examine both the trust instrument and the manner in which the trust was administered during the marriage[4].

[95]. The evidence establishes that the first defendant exercised exclusive control over the Trust. Although three trustees were formally

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3 Badenhorst v Badenhorst 2006 (2) SA 255 (SCA) at para 9.

4 See also P A F v S C F (788/2020) [2022] ZASCA 101; 2022 (6) SA 162 (SCA) (22 June 2022) paras 41 to 42.

appointed, no formal trust meetings were held, and the independent trustee (the fourth defendant) played no meaningful role. The first defendant took unilateral decisions, including the payment of his maintenance obligations to the plaintiff and the children from Trust funds. He further caused fabricated invoices to be issued so that rental income, in substance his own profit, was channelled through an entity of his nomination.

[96]. These facts demonstrate that the first defendant paid scant regard to the distinction between Trust assets and his personal assets. The requirements of Badenhorst are satisfied. The value of the P[...] Family Trust must therefore be included in the first defendant's estate for the calculation of the accrual.

Ad Calculation of Accrual:

[97]. In determining the accrual payable to the plaintiff, this Court relied on Mr Regenass's calculation annexed to his report. In my calculation of the first defendant's estate, I took into account the values of the provident fund, Bitcoin holdings, and the P[...] Family Trust, as well as the amount paid into N[...]' account. The value of the shares in K[...] Sentrum was accounted for in accordance with Mr Regenass's calculation. No deduction was made for capital gains tax. Consequently, I calculate the accrual payable to the plaintiff at R6,241,910.00. This amount is calculated on the basis that:

a. The value of the P[...] Family Trust is included in determining the first defendant's estate, which is valued at R2,900,000,00.

b. The value of the first defendant's Bitcoin holdings is included for purposes of determining the value of the first defendant's estate in the amount of R60,000.00.

c. The value of the first defendant's provident fund is included for purposes of determining the value of the first defendant's estate in the amount of R70,000.00.

d. The sum of R1,000,000.00 paid into the Money Maximiser account of N[...] P[...] is included for purposes of determining the value of the first defendant's estate.

e. The shares in K[...] Sentrum (Pty) Ltd are valued at R4,166,484.00 in accordance with Mr Regenass's report.

f. No deduction is made for Capital Gains Tax.

Removal of Plaintiff as Trustee of the P[...] Family Trust

[98]. I have concluded that the value of the trust should form part of the first defendant's estate for purposes of calculating the accrual.

[99]. I am of the view that the plaintiff should be removed as a trustee and trust beneficiary from the trust for the reasons that follow. The first defendant's evidence regarding the breach of the trust relationship between him and the plaintiff is uncontested. It is further not contested that the plaintiff played no role in the administration of the trust. As a

consequence of this judgment, the plaintiff will receive the full monetary benefit awarded under the accrual, which includes the value of the trust. Continued beneficiary status serves no remaining purpose in the parties' financial arrangements. The continued trust relationship may obstruct the administration of the trust or result in litigation, as the plaintiff and first defendant have an irreconcilable conflict of interest that would prevent them, as trustees, from properly performing their duties. The exclusion of the plaintiff would not unlawfully deprive her of vested rights or prejudice other beneficiaries, including the children.

Costs of Suit

[100]. Both parties achieved a measure of success. In the exercise of the Court's discretion under section 10 of the Divorce Act, each party will pay his or her own costs.

ORDER

In the result, I make the following order:

[1]. A decree of divorce is granted.

[2]. The first defendant is ordered to contribute towards the children's maintenance requirements until such time as they have completed their tertiary education and are self-supporting, by:

a. Continuing to maintain N[...] P[...]; and

b. Payment to E[...] P[...] of the amount of R23,000.00 per month.

[3]. The first defendant is ordered to pay rehabilitative maintenance to the plaintiff as follows:

a. payment to the plaintiff of the amount of R43,853.00 per month up until the end of June 2028;

b. payment of a twelve-month skills-upgrade course for and on behalf of the plaintiff at the North-West University, alternatively such other and similar tertiary institution chosen by the plaintiff.

[4]. The value of the P[...] Family Trust, the first defendant's Provident fund and his Bitcoin holding is to be taken into account as part of the first defendant's assets in calculating the accrual.

[5]. The amount of R1,000.000.00 paid by the first defendant to N[...] P[...] is to be taken into account as part of the first defendant's assets in calculating the accrual.

[6]. The first defendant is ordered to pay the plaintiff the amount of R6,241,910.00, being the difference between the accruals of the plaintiff's and the first defendant's estates.

[7]. Each party is ordered to pay his or her own legal costs.

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GV MAREE

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

NORTH WEST DIVISION, MAHIKENG

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