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Case No: ZC21F04050

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26 /04/2023

Before :

MRS JUSTICE THEIS DBE

Between :

	AZ	Applicant
	- and -	
	AG	Respondent

Mr Charles Howard KC, Ms Charlotte Hartley and Ms Zoe Harrison (instructed by
Mishcon de Reya)

for the **Applicant**

Mr Jonathan Southgate KC and Mr Ben Wooldridge (instructed by **Withers LLP**)

for the **Respondent**

Hearing dates: 20th to 24th March 2023

Judgment: 26th April 2023

Approved Judgment

This judgment was handed down at 2.00PM on 26th April 2023 by circulation to the parties or their representatives by e-mail.

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MRS JUSTICE THEIS DBE

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published. The anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Mrs Justice Theis DBE :

Introduction

1. The court is concerned with the wife’s application for financial provision under Part III of the Matrimonial and Family Proceedings Act 1984 (“the 1984 Act”). The respondent to the application is her former husband. I shall refer to them as the wife and husband in this judgment.
2. The wife seeks financial provision following leave having been granted on 7 April 2022. In addition to these proceedings, there has been extensive litigation regarding the children which I have dealt with, making final welfare orders in July and October 2022.
3. Before turning to consider the background to these proceedings, two matters are worthy of general observation.
4. The first is the lack of constructive engagement between the parties in these proceedings to assist the court to determine these issues. Part 1 of the Family Procedure Rules 2010 places an obligation on the parties to help the court further the overriding objective to deal with cases expeditiously and fairly. There has been limited, if any, evidence of that in this case. A recent example illustrates the point. A very clear direction was made for the parties to file a composite schedule of the chattels in advance of the hearing. That was not done until the first morning of the hearing and then only after considerable intervention by the court.
5. The second is the very high level of legal costs, contributed to by the way this litigation has been approached. Between the parties they have spent £4m in this application and £4.4m in the children proceedings, a total of £8.4m. The culture of conflict rather than solution in these proceedings has been thoroughly unhelpful. It has resulted in the court having to intervene in situations where a solution was obvious or readily achievable, without needing recourse to the court. It is of note that it was only at the direction of the court was a total costs picture given, with both parties then expressing their concern and shock about their high level.
6. A significant amount of valuable court time has been taken up with these proceedings which with a more constructive and less combative approach between the parties could have been avoided, making time for other cases to be heard. At every opportunity the court has impressed on the parties the need to change their approach, with little or no noticeable effect.

Relevant background

7. The wife is in her early fifties and the husband in his late forties. They were both born in London. The wife spent her early years in the UK, returned to a country in the MENA region (‘Country A’) for her primary and secondary education, undertook her first degree in the US and her second in London. The husband spent his early years in Country A and then lived abroad from the age of 9 years, in several places until from the age of about 10 years he was based in the US. This was due to the husband having been abducted from Country A by his father (‘the PGF’).

8. The parties met in London and married in June 2001 in Country A. They spent the first year of their marriage in the US and then lived in Country A between 2002 and 2020. Since then they have been based in London.
9. There are four children of the marriage, all born in the UK. The two older children are now young adults and the two youngest are both aged 10. The eldest is undertaking a degree in the US, the second is expected to follow with her further education in the US from September 2023 and the two youngest children are in full time school, since August 2020 based in London.
10. The wife has been the children's main carer. There had been an issue about that in the children proceedings right up to the door of the court when the husband confirmed the issue was no longer disputed. The parties have largely been able to agree the time the younger two children spend with the husband.
11. The husband worked in the family business. It is one of the largest privately owned companies in the MENA region. The husband joined the business soon after the parties' marriage in the early 2000s, and became the CEO a few years later. In late 2019, for reasons which are disputed between the husband and the PGF, their relationship deteriorated and the husband resigned as CEO. The husband and PGF signed a '*Release and Settlement Agreement*' in November 2019.
12. During the marriage the family lived what has been described as an international lifestyle, which was both lavish and exceptional. Prior to the breakdown in the relationship between the husband and the PGF the annual expenditure of the family was in the region of £10m pa and after the husband left the family business in 2019 was in the region of £2m pa.
13. The wife and children came to the UK in August 2020, at very short notice at the insistence of the husband. I made findings about the circumstances of that move in the children proceedings where, in summary, I accepted the wife's account that she thought she was coming here for a few months. The husband issued wardship proceedings here, without notice to the wife, seeking orders that prevented the wife and children returning to Country A, which they wished to do. In the children proceedings the court was critical of the way the husband sought without notice orders in circumstances that were not justified.
14. The husband came to the UK from Switzerland in September 2020 where the wife thought he was receiving medical treatment. In the children proceedings he accepted he was there on holiday with his partner LM. At that stage the wife was not aware of that relationship, only becoming aware of it via the children in November 2020, the day before the husband made a without notice application to prevent the children from returning to Country A. When he came to the UK the husband rented a property for LM in London and then in March 2021 purchased a London property on 'X Street' for £5.77m and LM moved there with him. The wife did not find out about this property until June 2021.
15. On 5 July 2021 the husband divorced the wife by Talaq. It was initiated without any notice to the wife, the husband had taken legal advice in Country A and the UK in advance of the Talaq. The husband's evidence lacked clarity or consistency about when he

decided the marriage had broken down. It was more likely to have been in the Autumn of 2020. The wife is entitled to no financial provision in Country A.

16. Between November 2020 and July 2022 the children were subject to orders that prevented them from leaving the UK. Those orders had been obtained at the instigation of the husband as he considered their return to Country A put them at risk of serious harm due to the actions that may be taken by the PGF.
17. Following a fact finding hearing in May 2022 I concluded the allegations made by the husband were not established, however I did find that the children were at risk if they returned to Country A through the way they could be *'impacted as collateral damage to the ongoing conflicts'* between the husband and PGF. I considered the wife, as the children's main carer, was an important safeguard for the children, providing she could have *'sufficient independent support, including financial support, possibly both in this jurisdiction as well as Country A, to underpin her autonomy as the primary carer for the children'* ([151] judgment dated 15 June 2022).
18. The welfare hearing took place in July 2022. I concluded that with appropriate safeguards being in place the children could return to Country A. The final part of the safeguards have yet to be put in place. The Arabic version of the final document is awaiting agreement by the husband before it can be registered in Country A.
19. Both parents have returned to Country A recently for short visits, the wife once in December 2022 and the husband on three occasions since then.

The Part III litigation

20. The wife's Part III 1984 Act application is dated 18 November 2021 with a statement in support. Directions were made for the permission application to be heard on notice.
21. The husband's statement is dated 8 March 2022.
22. The detailed case management order dated 7 April 2022 provides that the husband consents to the grant of permission under Part III without prejudice to his ability to argue at a later stage that the court should define the basis of the wife's claim, impose conditions on the grant of leave, define the issues in the proceedings and/or limit the evidence in the Part III proceedings. The wife agreed to defer issuing her Part III claim until after the welfare final hearing and she also agreed to proceed on the basis of abbreviated disclosure, subject to reserving her right to argue that full Form E disclosure should be provided later. That order recorded that the wife's costs to date were £139,213 and the husbands were £243,135. The order gave the wife leave and the Part 9 FPR 2010 standard procedure was stayed, pending further consideration at the first appointment in October 2022.
23. The children proceedings concluded on 28 July 2022 and on 10 August 2022 the wife's Part III application was issued. The wife filed further statements in August and October 2022.
24. The directions hearing on 11 October 2022 made provision for the filing of Form E, directed proposals to be made, recorded the parties agreement to a two day private FDR and listed the matter for final hearing in March 2023.

25. The private FDR was unsuccessful and the matter was listed for a final directions hearing on 17 January 2023. By that stage the wife's costs were £880,619 (with an additional £734,556 costs estimated to the conclusion of the final hearing) and the husband's £1,294,682 (with an estimated additional £590,496 until the conclusion of the final hearing). Just prior to the January hearing the wife served two schedules of chattels; schedule A listed the missing personal items belonging to the wife and the parties' children, and schedule B listed the other matrimonial chattels, including those the wife contends were possibly unaccounted for. The husband objected during the January hearing to the wife submitting the chattel schedules due to their length and/or late disclosure. In the afternoon he produced his own schedule of items from schedule B that he said had already been sold by him, mainly watches.
26. The order dated 17 January 2023 directed the husband to respond to the wife's schedules by 7 February 2023. In addition, permission was granted for an expert to value the items listed in the chattels schedules and for an expert to provide evidence of the costs required to meet the wife and children's housing needs in Country A. Other directions were made, including the date for replies to questionnaires, and the date for any application for an interim sale by the husband of properties in London (the property on X Street and another property on Y Street), directions regarding any expert evidence relating to the ownership of the shares in petrochemicals company, ABC, and directions for page limited statements by the parties, as well as a legal services payment order. The matter was next listed for directions on 26 January 2023.
27. On 26 January 2023 the SJE to value the chattels was identified as Corfield Morris and the expert for property costs in Country A, Mr AS. Directions were made regarding expert evidence on Country A law from Andrew Allen KC (who was subsequently replaced by Ian Edge due to availability) regarding the ownership of the wife's ABC shares, together with directions for an interim order for sale of the two London properties on the joint conduct of both parties. The husband was directed to pay 75% of the costs of that hearing.
28. An urgent hearing was convened on 28 February 2023 due to an issue arising regarding the sale of the Y Street Property. Following developments during the hearing the parties were able to agree the sale of the property for £12m. The costs of that hearing were reserved.
29. Both parties filed statements in accordance with the directions order dated 17 January 2023. The wife on 2nd and 10th March 2023. The husband on 6th and 10th March 2023.

Asset summary

30. The agreed schedule of assets submitted by the parties sets out the following headline figures:

Husband's assets: £186m (according to W); £70m (according to H)

Wife's assets: A deficit of £103,726 (according to W); £6m (according to H)

31. The difference in the figures is largely accounted for by the following. The wife attributes to the husband additional chattels to the value of £16m, an additional £3m in the bank accounts and £96m based on the husband succeeding in all the outstanding

litigation between him and the PGF. The husband attributes to the wife £6m, largely being the value of ABC shares in her name and her one third interest in her parents' property in Country A where they still reside.

32. It is of note that a significant part of the assets consist of valuable chattels, including watches/art/cars/guns to the value of over £38m. The balance is comprised of property in the UK (£12.6m), bank accounts (£4.8m) and investments/policies (£15.7m). The husband states the assets of £70m is a *'fragile'* figure due to the high proportion represented by chattels and the cloud of continuing litigation with PGF. Yet in his closing written submissions the husband stated that as the wife's claims only need to be assessed on a 'needs-light' basis it is not necessary for the court to have more than a relatively broad understanding of the value of the husband's assets, with no need to *'determine the quantum of H's remaining wealth with exactitude given the confines of W's Part III claim'*.

Summary of open positions

33. The parties have been able to agree periodical payments for the children at £60,000 each per annum, which should be index linked and payable by way of standing order.
34. The parties have made a number of open proposals which can be summarised as follows:
- (1) W to H 25.11.22 – lump sum **£50m** –£20m home in Country A; £20m Duxbury fund; £8m London property; £1.2m rental costs in Country A pending Country A home being completed; £365,000 for W to repay monies owed to her father. Plus £1m in escrow as litigation fund. Continued interim financial arrangements until return to Country A. Return all personal belonging to W, if damaged to meet cost of replacement. Continue to pay the eldest child's costs. £60,000 periodical payments per child until completion of tertiary education, plus education and medical costs. H to pay all outstanding legal costs. W to transfer to H legal and beneficial interest in a company ('Q') which was set up by the husband in the wife's name. Clean break.
 - (2) H to W 25.11.22 – lump sum **£8.6m** which together with her own financial resources will enable her to fund £7m home in Country A, with aim of scaling down when the younger children reach 22 years, and provide a Duxbury fund for income of £500,000 pa for the remainder of her life. H to continue current interim arrangements until move to Country A. H will pay a sum equivalent to £8,044 GBP for 2 years from September 2023 to allow the wife to rent a property in Country A. Child maintenance £260,000 pa for 4 years from September 2023, £195,000 per annum from September 2027. Payments to cease on the youngest children's 22nd birthday. H will fund the costs of the children's flights for contact with him and the cost of the W's flights to accompany them until the age of 14 years. H will meet education costs. As regards belongings save for a few select items referred to in the letter dated 7 October 2022 the W can have her *'pick of the items in storage in Country A'*. Clean break and no order as to costs. This offer was marked to remain open until 10 January 2023.
 - (3) H to W 12.12.22 – lump sum **£9m** on largely the same terms as in (2) above save that there is provision for cars – W to retain her Ferrari and retain the five cars

within Q company. The proposal is marked to remain open until 10 January 2023.

- (4) W to H 11 January 2023 - **£44m** lump sum to reflect reduction in Duxbury fund to £15m and cost of London property to £6m. The proposal was marked to remain open until 24 hours before the start of the trial.
- (5) H to W 10.3.23 – lump sum of **£12m** (net proceeds of the Y Street Property and balance by 31 December 2023), until payment of the first part of the lump sum interim arrangements to continue. H to pay interim rent in Country A of a sum equivalent to £6,971 GBP from July 2023 to July 2025. Same as previously regarding payments for the children, including education and costs of flights. Save for items listed in the letter, the balance of the personal chattels to the W. H repeats his proposal as above regarding the cars. Clean break, no order as to costs save for reserved costs on 24 February 2023.
- (6) W to H 13.3.23 – missing items on schedules returned or payment in lieu of items. Lump sum **£49,744,934** (or £54,764,674 if personal items not returned) by 1 July 2023. Lump sum breakdown - £13.5 m for property in Country A, £1.92m interior designs and furnishing in Country A, £15m Duxbury fund, £12.5m for London home, £1.41m purchase costs and £1.31m interior design and furnishing London home, £4.208m to replace W's missing jewellery, £811,126 to replace missing watches, £3.179m to fund replacement wardrobe, £497,113 to purchase vehicles, £365,000 to repay W's father, £50,000 to fund travel costs to return to Country A. In addition, H to fund rental costs a sum equivalent to £16,088 GBP from 1 June 2023 until Country A property completed and provide £1m litigation fund. The balance of the proposals regarding the children remain the same, items in storage to be divided by agreement. Clean break.

Legal framework

35. The leading case providing guidance on how to deal with applications under Part III is *Agbaje v Agbaje* [2010] UKSC 13 where Lord Collins sets out the following, under the heading 'The proper approach':

71. To take up some of the points made in the preceding paragraphs, the proper approach to Part III simply depends on a careful application of sections 16, 17 and 18 in the light of the legislative purpose, which was the alleviation of the adverse consequences of no, or no adequate, financial provision being made by a foreign court in a situation where there were substantial connections with England. There are two, inter-related, duties of the court before making an order under Part III. The first is to consider whether England and Wales is the appropriate venue for the application: section 16(1). The second is to consider whether an order should be made under section 17 having regard to the matters in section 18. There are two reasons why the duties are inter-related. First, neither section 16(2) nor section 18(2) and (3) refers to an exhaustive list of matters to be taken into account. Section 16(1) directs the court to have regard to "all the circumstances of the case" and section 16(2) refers the court to certain matters "in particular." Second, some of the matters to be considered under section 16 may be relevant under section 18, and vice versa. An obvious example would be that section 16(2)(e) refers the court to the financial provision which has been made by the foreign court. Plainly that would be relevant under section 18. So also the direction in section 18(6) to the court, in considering the financial resources of a party,

to have regard to whether an order of a foreign court has been complied with would plainly be relevant in considering whether England is the appropriate venue.

72. It is not the purpose of Part III to allow a spouse (usually, in current conditions, the wife) with some English connections to make an application in England to take advantage of what may well be the more generous approach in England to financial provision, particularly in so-called big-money cases. There is no condition of exceptionality for the purposes of section 16, but it will not usually be a case for an order under Part III where the wife had a right to apply for financial relief under the foreign law, and an award was made in the foreign country. In such cases mere disparity between that award and what would be awarded on an English divorce will certainly be insufficient to trigger the application of Part III. Nor is hardship or injustice (much less serious injustice) a condition of the exercise of the jurisdiction, but if either factor is present, it may make it appropriate, in the light of all the circumstances, for an order to be made, and may affect the nature of the provision ordered. Of course, the court will not lightly characterise foreign law, or the order of a foreign court, as unjust.

73. The amount of financial provision will depend on all the circumstances of the case and there is no rule that it should be the minimum amount required to overcome injustice. The following general principles should be applied. First, primary consideration must be given to the welfare of any children of the marriage. This can cut both ways as the children may be being supported by the foreign spouse. Second, it will never be appropriate to make an order which gives the claimant more than she or he would have been awarded had all proceedings taken place within this jurisdiction. Third, where possible the order should have the result that provision is made for the reasonable needs of each spouse. Subject to these principles, the court has a broad discretion. The reasons why it was appropriate for an order to be made in England are among the circumstances to be taken into account in deciding what order should be made. Where the English connections of the case are very strong there may be no reason why the application should not be treated as if it were made in purely English proceedings. The full procedure for granting ancillary relief after an English divorce does not apply in Part III cases. The conditions which can be attached to leave, together with the court's case management powers, can be used to define the issues and to limit the evidence to be filed, as was done by Munby J in this case. This enables the jurisdiction to be tailored to the needs of the individual case, so that the grant of leave does not inevitably trigger a full blown claim for all forms of ancillary relief.

36. The spectrum of situations, as described by Lord Collins in *Agbaje*, range between situations where there is only a very weak connection with this jurisdiction, where no provision under s16 (1) may be appropriate, to those at the other end where a marriage had been firmly based in this jurisdiction. The court needs carefully to consider the varied landscape between the two and each case, by definition, is fact specific.
37. Although not a specific term used in the statutory framework recent cases have developed what has been described as a 'needs light' approach. In *MA v SK* [2016] 1 FLR 310 Moor J stated:

55. I need only refer to one authority, namely the Supreme Court decision in the case of Agbaje v Agbaje [2010] UKSC 13; [2010] 1 FLR 1813. The proper approach to be

taken in a case such as this is set out by Lord Collins of Mapesbury at Paragraphs [71] to [73] of his speech. I do not propose to repeat these important paragraphs word for word. I distil the following principles:-

(a) The intention of the Act was the alleviation of the adverse consequences of no, or no adequate, financial provision being made by a foreign court in a situation where there were substantial connections with England and Wales

(b) The situation is different from an application that is made pursuant to the Matrimonial Causes Act 1973 as Lord Collins makes plain that some of the matters to be considered under section 16 may be relevant to section 18, and vice versa.

(c) It is not the purpose of Part III to allow a spouse with some English connections to make an application in England and to take advantage of what may well be the more generous approach in England to financial provision, particularly in so-called big-money cases, although there is no condition of exceptionality.

(d) Hardship or injustice is not a condition of the exercise of the jurisdiction but, if either factor is present, it may make it appropriate in the light of all the circumstances, for an order to be made and may affect the nature of the provision ordered.

(e) The amount of the financial provision will depend on all the circumstances of the case and there is no rule that it should be the minimum amount required to overcome injustice. It will never be appropriate to give the claimant more than she or he would have been awarded had all the proceedings taken place within this jurisdiction. Where possible, the order should have the result that provision is made for the reasonable needs of each spouse. Subject to these principles, the court has a broad discretion.

(f) The grant of leave does not inevitably trigger a full-blown claim for all forms of ancillary relief.

56. It is, therefore, clear that, as I am applying a different statute, different considerations apply compared to a pure MCA 1973 application. In this regard, I agree with the observations of Coleridge J in Z v A [2012] EWHC 467; [2012] 2 FLR 667. It follows that I disagree with the observations of Mostyn J made at [2014] EWHC 3411. The award may be the same as it would have been under the 1973 Act, if the English connections are very strong but, equally, it may not be. It all depends on the circumstances of the particular case being tried.

57. I will have to make findings as to the connection between these parties and this country. I will have to determine whether it is appropriate or not to make an order in the first place. If I decide to do so, I will have to consider what order to make. It is rightly not suggested by Mr Pointer that this is a case for sharing. He approaches it on the basis that I should make an award to satisfy his client's reasonable needs, generously assessed, in the context of my findings as to the wealth of the parties. The concept of reasonable needs is, of course, a very elastic one. It is hard to argue with

the proposition that the vast majority of the population could cover their reasonable needs more than adequately on the net equity from the Paris property but this is not a normal case, given the sumptuous standard of living and the Wife's assertions as to the Husband's fortune. I will have to return to this in due course."

38. Although I have been referred to other cases I do not consider it is going to be helpful to set them out in this judgment. The guidance in *Agbaje* provides the relevant principles and the summary outlined above by Moor J provides a helpful further distillation of the legal framework.

Evidence

39. The wife has filed seven written statements and her Form E. In addition, both parties have referred to their written evidence in the children proceedings. The wife gave oral evidence over two days. She clearly finds this contested litigation very distressing, and has had to manage many changes recently. The wife is not financially astute as the husband clearly is. Whilst I may not be able to accept some of her evidence on certain matters, generally her evidence was credible. Her role during this marriage was clear, it was primarily as a homemaker and mother. That was ultimately accepted by the husband during the children proceedings. The stability she has been able to provide, in particular during recent years when the husband was absent for significant periods of time as he was often travelling abroad relating to the family business or to receive medical treatment due to ill health, has been of particular benefit for the children and the family as a whole. Her role in continuing to be able to provide that stability and security remains an important consideration, will continue for many years to come and requires proper and effective support. The husband considers the wife has exaggerated her financial claims, which in places she has, and he says they need to be viewed within the context of the more limited jurisdiction regarding Part III claims.
40. The husband has filed four written statements as well as his Form E and referred to the evidence in the statements in the children proceedings. He also gave oral evidence over two days. He is an accomplished and experienced businessman, having held a leading role in the family business during the majority of the marriage until 2019. His period in the family business, by all accounts, was a very successful period, both for him and the business. Since then he has been involved in managing his exit from the family business while looking at using his considerable expertise in realising his earning capacity, as explained in the magazine interview with him, which is found in the trial bundle. The husband's evidence on some issues was less than satisfactory, in particular his wholly inadequate management and oversight of the movement of the family possessions from the family home in Country A, his inconsistent accounts of the purpose of the companies he is still involved in and his explanation regarding the insurance schedules produced by PGF. Generally where there were conflicts between the husband and with any factual evidence given by the wife I preferred the evidence she gave.
41. I now turn to consider the main evidential issues between the parties.

The husband's financial resources

42. The net assets on the ES2 schedule are (per the husband) about £70m. The wife contends the husband's assets are likely to be more than that. This is based on the

inconsistent accounts he has given about the various companies, in particular H's companies N and M, the unaccounted chattels and the outcome of litigation with the PGF. This is denied by the husband who contends that because the wife's claims are to be assessed on a '*needs light*' basis it is only necessary for the court to have a relatively broad understanding of the value of the husband's assets (per Moor J in *AH v PH (Scandinavian Marriage Settlement)* [2014] 2 FLR 251).

43. The husband contends the ongoing litigation with the PGF remains a real risk to the value of his assets. This is illustrated by a recent claim made by the PGF for £1.4m, which specifically preserved his rights to claim a further £58.1m relating to payments alleged to have been made for the husband's personal benefit during his period as CEO for the family business. It is accepted this claim was dismissed 'without prejudice' (i.e. withdrawn) by the PGF in November 2021, the husband contends there is no issue estoppel and the PGF could commence a fresh claim. It is of note that he has not done so yet.
44. There are further outstanding proceedings against the PGF, including the husband's claim for his end of service payment and unpaid salary. Judgment was entered in favour of the husband for £14.5m in November 2022, but is the subject of an appeal. There are two other sets of proceedings, First, the residential plot in Area S of Country A. It was registered in the husband's name, he transferred it to the two younger children in 2019. The PGF has been successful in his claim to ownership of this land, the husband says there are no further appeals and in his closing submissions says the Area S land has been sold to a third party. Second, the PGF claims to be the owner of the beach chalet which the husband also transferred to the two younger children in 2019. So far the court has ruled against the husband, there is an outstanding appeal by the husband to the Court of Cassation. In her oral evidence the wife did not express a view about the outcome of this litigation.
45. As with many other aspects of this case, this is part of the background to the paternal family. If successful the husband may secure further assets, if not he may be exposed to further liability. The husband does not suggest the existence of the litigation should reduce the claim he says the wife has under Part III.
46. The husband does have an earning capacity. His evidence in relation to the UK registered company, Company N, has been confusing and inconsistent. In his evidence he indicated the purpose of the company was to facilitate UK based payments and liabilities and said payments totalling £1.9m from his personal bank account to Company N were to settle his UK based liabilities, including legal costs of these proceedings. In his oral evidence he suggested the purpose of the company was to '*de-envelope*' and wind down the companies/structures he had inherited from the family business. There was uncertainty about the number of staff employed, which he said was 5 at any one time and he had employed 10 people through Company N since he had been in the UK. He initially said the annual salary bill was £450,000, before revising it to £650,000.
47. I agree with the wife that the explanation by the husband as to the complexity, resources and financial expenses required simply to wind down structures which seemed to be little more than holding vehicles for cars or boats, lacks credibility. When viewed with what the husband said about this company in the magazine article makes it more likely that the husband is operating this company with a view to exercising his significant earning capacity based on his experience and expertise.

48. The same opaqueness applies in relation to Company M based in Country A. In his written answers he refers to it as a general trading company and the husband holds minimal information about it, then saying in oral evidence it was an entity were he to employ people in Country A stating *'you need to have a company that can issue Visas for foreigners'*. He then went onto to reveal that Mr M had been employed through this company structure through a services agreement. Again the inability of the husband to provide a simple, consistent and clear account leads to the conclusion that this company is likely to be another financial resource or earning capacity source available to the husband.

Wife's assets

49. The wife owns shares in ABC that have a value of £3.9m. There is a power of attorney in respect of those shares in favour of her father. The wife says this arrangement was put in place some time ago to secure her ability to inherit from her father. Her evidence is that since they have been in her name for the past 20 or more years she has always paid the annual dividend to her father, save in 2021 when she retained the dividend due to her difficult financial situation at the time. Whilst she recognises she is the legal owner of the shares, as confirmed in the evidence from Ian Edge, her evidence was that it would not be possible for her to sell them due to the nature of her relationship with her father. In his oral evidence the husband, to his credit, did not dispute that was the position, stating *'I do not want to cause [the wife] any issues with her father...if it does cause strife within her family, I would not want to cause that strife'*. As a consequence, this is an asset the wife has but is unlikely to be realised until her father's death.
50. The wife also has other entitlements on the death of her father. The P Trust is a Guernsey Trust settled by her father. It has professional trustees and a solicitor based in the UK. The wife's evidence is that she knows little about its existence and only became aware of more details recently when her father communicated with her about her tax status here, following her move to London in August 2020. In her Form E she states *'On 30 September 2008 my father settled a discretionary trust, the P Trust. I am not a beneficiary of the P Trust. There are only two beneficiaries, my parents. The Trustees have no power to add any individuals to the class of beneficiaries while my father lives'*. She continues that after her father's death *'I would be defined within the class of beneficiaries, albeit with no absolute entitlement to any share of the trust funds...'*. The husband submits that in the absence of information being provided about it, which would have been done if it had limited value, the court can infer that with the existence of professional trustees, solicitors and concern about the wife's tax status it is an unquantified but substantial resource, taking into account what is known about the wife's family. In part I agree that inference can be made in the light of what is known about the Trust and the maternal family, however it is limited by the fact that there is no certainty the wife will be added as a beneficiary and there is no tangible information regarding the value of the trust funds.
51. The wife has a one third interest in her parents' property in Country A (£1.5m). The husband also suggests the wife has a similar share in her parents' flat in London (about c£420,000) and her mother's ABC shares (c£2.2m). The wife does not accept this. These interests are only likely to become available on the death of both of her parents and would be subject to any need by either of her parents to realise those funds before their death. The wife's father is 82 years and her mother 76 years, their life expectancy is about 7 and 13 years respectively. These assets need to be viewed in the context that

they will only realistically be available if the wife's parents do not need them during their lifetime.

Husband's inheritance prospects

52. The wife contends that despite the estrangement between the husband and PGF under Sharia law the husband remains the eldest son and is likely to inherit the PGF's considerable assets. That proposition under Sharia law is not really disputed by the husband. In his oral evidence the husband referred to possible steps he had heard the PGF is taking to prevent the husband's inheritance, similar to the steps taken by the PGF in 2008 to disinherit the husband's brother when he had been banished from the family. The husband confirmed that as far as he knew the PGF still controlled the family business and related companies, and he accepted the steps that he had wanted taken regarding fertility treatment undertaken by the wife to ensure a male heir.
53. Whilst there appears to be no doubt that the husband and PGF remain estranged and embroiled in litigation which is the modus operandi of this family, things can quickly change, as happened to the husband's brother. He was in the wilderness for a number of years before being welcomed back into the paternal family fold, and he gave evidence in support of the PGF in the children proceedings.
54. On the information the court has there is nothing to suggest the husband will not inherit the family business as the eldest male heir. The fractured relationship between the husband and the PGF makes the position more complicated although that has to be viewed against the background of the changing allegiances in the paternal family and the likelihood of the significant importance that will be placed on the family business remaining within the paternal family control for the generations to come.

Chattels

55. A considerable amount of time has been consumed on the issue of chattels in this case. There are two schedules:
56. Schedule A which lists 61 items of jewellery, 11 itemised bags and 112-117 bags listed by group (not individually itemised), 2 itemised watches and 14 watches listed by group (not individually itemised) and 17 categories of clothing. The wife says these items were left by her in Country A when she left at short notice in August 2020. She says the valuable items were mainly kept in her large safe, and other personal items were left in the family home in Country A. If these items can't be located the wife seeks a sum of £4.2m to compensate her for them and seeks a further sum of £3.2m for replacement of her missing bags and clothes built up during the marriage. The husband has been critical of the wife's inability to recall the missing items. She says it has been difficult due to the large quantity of items and the fact that she has been away from Country A for so long.
57. Schedule B includes the other items that were on the PGF's list (as well as those that have been disclosed elsewhere, including by the husband), with the items the husband says have been sold having been removed from the schedule. The PGF's list is a list of items provided to the wife by the PGF in November 2022 which she attached to her Form E stating *'[the husband's] father's PA undertook inventories (for insurance purposes) in February 2020 of our art, jewellery and watches (these belong primarily to [the husband]) and I recently made a request that these be provided to me so that I could identify these*

items and their value to the Court. These were provided to me by [the husband's] father's solicitors on 3 November 2022 and are attached...'. The lists are dated February 2020. The wife estimates the missing/unaccounted items are worth about £16m.

58. There are two main issues:

(i) The location of the wife's personal items in Schedule A and the extent, if any, to which they can form part of the wife's needs in this case. The lease for the rented property that the family had lived in in Country A for about 20 years was terminated by the husband in January 2021. The wife accepts she had been told about that in late 2020. The husband accepted in oral evidence he, not the wife, was responsible for the arrangements for moving the family's belongings from that rented property. The wife contends many items have gone missing including her collection of clothes and handbags, as well as her two safes which contained her jewellery, that she had built up over 20 years of marriage and included her wedding jewellery. Her case is that in the absence of them being found she should receive a lump sum to replace them. The husband denies any knowledge of their specific whereabouts, contends it was dealt with by others on the ground and the possessions may still be in storage due to the volume of material stored there. The husband also questions the wife's credibility as until her recent s18 statement it had been understood she knew nothing about the whereabouts of these items and he suggests she was evasive about not taking up the husband's offer to visit Country A in July 2022. The wife said she had responsibilities towards the children at that time. I accept her evidence.

(ii) The extent of the chattels. The wife relies upon the PGF's list, which lists items it is said may not have been disclosed by the husband. The husband contends that this list is wholly unreliable as it contains items listed he has proved he had already sold (e.g. over 100 watches) which pre-date the date on the schedule, the lack of reliable information to support the contention that the list contains only items owned by him, the fact that the PGF did suggest when the list was sent that it could not be relied upon, and further that when it was sent it had no identifiable information with it, such as a covering email. The husband says the PGF's reservations as to reliability was not volunteered by the wife, as the covering letter that came with the list was only disclosed in answer to a questionnaire in February 2023. In his oral evidence the husband said he had discovered that a further 14 watches that had been sold that were on the list.

59. The issue of the location of personal chattels was first raised in the children proceedings when the husband was asked about where the wife and children's personal chattels were at the fact finding hearing in May 2022. As a result of the lack of certainty about where their possessions were the wife proposed an inventory should be prepared by a company (ultimately, this exercise was carried out by agreement by D company).

60. In June 2022 the husband's then solicitors, Farrer & Co, wrote stating that it was not necessary to prepare an inventory as the vast majority of the items had little or no value, consisting mainly of the paraphernalia of everyday family life, and the husband expected that much of the general contents would need to be disposed of. Attached to that letter were pictures of items that had been damaged, or were in a poor state.

61. When asked about that letter during this hearing the husband gave evidence that he had sent someone out to Country A in June 2022, at his expense (costing about £10,000), an analyst who worked for him here, to see what the position was regarding the family

chattels and that person had taken the photos. That information had not been disclosed previously or volunteered, for which the husband could give no reason other than no-one had asked.

62. It is now known (although not at that time, and not until February 2023 when the husband responded to the questionnaire) that according to the husband he had engaged Mr M, on the recommendation of his lawyers in Country A, in January 2021 to oversee the move of the family possessions. The husband gave oral evidence that Mr M was reporting direct to the husband.
63. At this hearing the husband produced a copy of the January 2021 service agreement between Mr M (signing as general manager of Company O) and the husband (signing as General Manager of Company M). That agreement details the scope of engagement as covering the following services by Company O: 1. Authorized Company Signatory. 2. Administrative Services. 3. Human Resources Services. 4. Employees Services. 5. Government Services. 6. Payroll Services. 7. Finance and Accounting Services. It is not obviously clear how the terms of this service agreement covers the responsibility the husband says Mr M had for the movement of the family chattels.
64. The husband's evidence about Mr M was wholly unsatisfactory. He could not explain why he had not mentioned Mr M's role before February 2023. He was evasive and contradictory about precisely what Mr M's role was and what the involvement was in the packing by the husband's staff. One exchange from the transcript illustrates the confusion created by the husband: Mr Howard K.C. *Had the wrapping and packing took place before that contract [the Service Agreement]; yes or no?* The husband: *I believe he was working and he was engaged before that contract.*
65. This was all in the context of the husband's evidence that he knew nothing about the whereabouts of the wife's personal possessions yet could instruct Mr M to retrieve personal items of the husband's (such as belts and watches) and access the husband's safe, so Mr M could deliver those items to the husband in the UK on more than one occasion.
66. In his oral evidence the husband accepted he, not the wife, was responsible for the arrangements for the movement of the personal items. That reflects the dynamic and roles in their relationship. There has been no real challenge to the fact that the wife had extensive jewellery and personal items built up during the marriage, many of the items were illustrated by photographs. I accept her evidence that the items listed in Schedule A had been acquired during this marriage. The wife has produced photographs of her possessions both at the family home prior to August 2020 and at the beach chalet. Those items were mainly at the family home, with possibly some items in the beach chalet. The husband knew about the general existence of them, including the wife's safes, and he had overall responsibility for the move of those items from the apartment in early 2021 to the beach chalet and other storage locations.
67. The husband's evidence over an extended period of time has obfuscated this issue. His oral evidence was evasive and unreliable. He has known how important this issue has been for the wife, it having been raised in May 2022, and he has, in my judgment, taken no steps to provide any clarity about what happened to these items, despite the

arrangement with Mr M having been in place, according to him, since January 2021. The husband only asked Mr M in writing for the first time about the location of items on 6 February 2023, although he said he had tried to meet with him previously.

68. At about the same time as the husband was failing to give helpful or reliable information about the whereabouts of these items, Mr M was being instructed to locate some of the husband's personal items with no apparent difficulty. That, in my judgment, is telling. Also, the fact that at the same time the husband was sending someone out from the UK to take photographs of the possessions to demonstrate they were of limited or no value without considering the whereabouts of the wife's personal possessions simply makes no sense. The situation the wife is in now of not knowing where her things are is of the husband's making.
69. I reject any suggestion that the wife has not been forthcoming with information about the whereabouts of her personal possessions. She was entitled to assume that her personal possessions would be moved in a way that ensured their integrity. That did not happen. This was not a situation that she had created or for which she had any responsibility for.
70. I reject the suggestion that there has somehow been unfairness in the process as Mr Southgate suggests. It has been the husband who has not been forthcoming with details about what has taken place. The husband's constant refrain, deflecting the responsibility to others, is not credible and is consistent with his ability to confuse rather than to clarify situations as a way of avoiding responsibility when it suits him. As a result of his failure to manage the move properly, or in a transparent or logical way, I am satisfied that the loss of these personal items of the wife is the husband's responsibility and it should be considered as part of the wife's needs within this application.
71. A related issue is the husband's continued failure to provide clarity in relation to the cars. As part of the husband's proposal for the wife he includes the wife's Ferrari. According to the letter from Mr M to the husband in February 2023 he refers to having possession of a number of items that were given by the husband to Mr M, including the wife's Ferrari which, according to Mr M, he (Mr M) has been asking the husband to make arrangements to collect. As the transcript demonstrates it was impossible to get a clear response from the husband about what steps he had taken to get these items back or how why they had got into the possession of Mr M in the first place. Frankly, none of it made any sense. The husband has displayed a wholly reckless disregard for other people's belongings, in particular those belonging to the wife.
72. Turning now to the extent of the chattels as listed in Schedule B. This in large part relies upon the reliability of a list provided to the wife by the PGF and the husband's evidence.
73. The husband's position is that the list is inherently unreliable as it includes items on it that he has demonstrated have been sold. The PGF raises issues about its reliability in any communication about the list. Whilst the husband accepts there was a global insurance policy that covered the items owned by the parties prior to him leaving the family business, his oral evidence was that it was difficult, because of the fluidity of the way items were used, to establish ownership, in particular, any items that were attributable to his ownership. Finally, the husband says it has not been possible,

because of the way the list has been sent, to check the meta data that underlies it and this list has to be viewed in the context on the ongoing difficulties between the husband and the PGF.

74. Whilst it is correct that the husband has been able to demonstrate that a number of items on the schedule have been sold, thereby demonstrating its unreliability on some matters, that has to be balanced with other evidence. In particular, information in the emails that have been disclosed and the wider context of the evidence. Those emails show that in 2018 and 2019 there were email exchanges between LF and NF about the insurance inventories. The husband accepts NF was one of his personal assistants at the time. In May 2019 there is an email exchange asking NF to check the monthly art report, with the email being entitled '[H's initials] Monthly Art Report April 2019'. Later that month NF emails LF to inform her of some watches that had been recently purchased asking her to *'kindly insure immediately as the collection of these will take place tomorrow'*. She responds *'They will be added to Mr [H's initials]'s policy effective today'*. In his oral evidence the husband sought to distance himself from knowledge of any detail of these matters, relying on the many other demands on his time during that period, yet the emails convey a keenness to make sure the information was accurate, items when purchased were added to the insurance schedules and the husband accepted that NF would not have ordered a valuation of his watches by Phillips without the husband's approval.
75. The husband's vagueness in relation to the PGF schedules needs to be contrasted with the prompt steps he took regarding the removal of artwork from Country A to Switzerland in late 2020 and his ability to produce details of watches that had been sold (including producing a detailed list during the court hearing on 17 January 2023). This supports the husband's keen eye, personal knowledge and interest in the location, ownership, movement, storage and sale of these various valuable chattels. The fact that valuable chattels make up such a large part of the asset schedule provides an insight into the knowledge and expertise the husband has in relation to such matters.
76. Having considered the evidence as a whole about the extent of the chattels I have reached the conclusion that it is more likely than not there are items that have not been disclosed by the husband, although it is difficult to know the extent or value of those items due to the passage of time and the husband's lack of access to the family office. The husband's evidence on this issue has not been consistent or reliable. His oral evidence about these matters has to be seen in the light of the emails in 2018 and 2019 which demonstrate a detailed knowledge by him, or those who worked for him, of the items on the insurance list that were owned by him. His suggestion in his oral evidence that there was a fluidity about ownership of items was an attempt by him to distance himself from this list and any additional items that may be attributable to him. Whilst it is right that some of the items on the list have been sold by the husband, so there is some support for his point about the lack of reliability of the list, that does not fully account for the balance of the items on the list that have been part of an established insurance process that has taken place over a number of years. I have considered whether this list was produced as part of the ongoing conflict between the husband and PGF with a view to undermining the husband but consider that unlikely in the light of the wider circumstances of the case and the husband's evidence about the emails and the prior existence of the insurance schedule.

77. The husband's oral evidence that all these items have not been insured from January 2020 provided another layer of confusion. The husband accepted most of the valuable items owned by the parties had been insured up until the time he left the family company, as they had been throughout the marriage, yet the cost of insurance had not featured in the detailed communications about household budgets in July 2020. The husband accepted the lack of insurance since January 2020 had not been communicated to the wife.
78. I have factored in the context of how the list has been provided, the inability to check the meta data, that it included items that had been sold and the continuing conflict with the PGF, but have reached the conclusion that the husband has failed to give a reliable or consistent account of the extent of the chattels.

Property in Country A, including interim rental

79. It is accepted that the wife should have funds to purchase land and build a property in Country A and pending that should be able to rent accommodation there whilst the purchase and building works are undertaken. The issues between the parties centre on (i) the size of the plot and property that is built, and (ii) the cost of rented accommodation.
80. The SJE, Mr AS, provided a report dated 23 March 2023 and gave oral evidence. From the details he gave about his background he is clearly very experienced, in particular regarding the housing and property market in Country A.
81. There is no great issue between the parties as to the area in Country A where the wife should look to purchase a property, either D district or S District. D district is the area where the wife's parents and sister live and it was accepted the parties had looked in that area previously to build a property. In her oral evidence the wife said she preferred the S District area, as there where most of her friends lived, but if that did not work she was content to look at the D district area.
82. As regards the size of the plot to purchase whilst the wife seeks a 1500 sqm plot size she accepted in her oral evidence that a 750 sqm plot would meet her housing needs but she would like sufficient space for a garden and pool for the children to play in, as they do not have access to the beach chalet that they had previously.
83. Mr AS accepted that it would be reasonable to assume a built up area of 2,250 sqm living space on a 750 sqm plot. He also said that for the type of house sought by the wife plus making an allowance for a large area for young children to play in he would not go for less than 1000 sqm to accommodate that. His evidence was that in these areas 750 sqm was the more usual plot for sale, a 1000 sqm plot was less usual and a 1500 sqm plot was unusual, describing it as being 'very rare'.
84. Having considered the evidence I am satisfied that a 750 sqm plot would be sufficient space to build a suitable property for the wife and children that would be able to extend up to 2,250 sqm and that the allowance should be based on the S District area prices. This is the wife's preferred location, which I accept her evidence upon. I acknowledge she said she could live in the D district area and if the property prices continue to rise that is what she may have to do. The plans in the experts report for the build on a 750 sqm property would allow for a garden and pool space, which could accommodate the

children's needs. There would be the option of the wife choosing a 1000 sqm site in a location in the area she seeks that is less expensive.

85. The evidence of the land purchase and build costs can be summarised as follows:

1. Land costs S District	a sum equivalent to £7,106 GBP per sqm	a sum equivalent to £5,329,165 GBP
2. Broker's fee 1%		a sum equivalent to £53,243 GBP
3. Design costs		a sum equivalent to £67,034 GBP
4. Project management and supervision costs		a sum equivalent to £96,528 GBP
5. Licence costs		a sum equivalent to £13,407 GBP
6. Building costs (based on 1,650 sqm)		a sum equivalent to £4,372,047 GBP
Subtotal (rounded up) £10,000,000 GBP		
7. Contingency fund 25%		a sum equivalent to £2,482,868 GBP
8. Maintenance 5%		a sum equivalent to £496,574 GBP
Total (rounded up) £13,000,000 GBP		

86. Within the budget above there is some inherent flexibility. In the figures Mr AS gave for the land costs per square metre, they are averages and there is variation depending on the location of the plot within each area. The wife could choose to live in the D district area, which is less expensive. The building costs are based on a build area of 1,650 sqm, whereas the evidence demonstrated that it would be possible to build up to 2,250 sqm on a 750 sqm plot. The figures given in the SJE report are valid until July 2023 when there may be inflationary increase, or a decrease. The indications from the evidence are that there is likely to be an increase due to the level of demand, which seems to remain strong in particular areas. As Mr AS said '*all prime locations, prime areas would probably hold up for their prices even if there is an economic or political downturn*'. Mr AS was referring to the two areas where the wife wishes to live.

87. The husband takes issue with a number of the matters listed above. In the figure he submits of £8.3m (£4.7m for the land and £3.6m for the build) this limits the wife to the average for the D district area, removes in excess of £1m for '*specialities, furniture and accessories*' and makes no allowance for contingency and maintenance costs. I do not regard those adjustments as reasonable in the circumstances of this case for the following reasons. The evidence from Mr AS is that these areas are prime locations and the wife needs to be in a position to have some flexibility regarding price. Whilst there may be some contents from the previous family home that can be used in the circumstances of this case, the lack of clarity about the condition of the contents and the background to this case means the amount provided for furniture etc should be included. I am also satisfied the contingency fund and maintenance sum should be included. This will help to reduce the risk of delay in the project being completed and properly provide a fund for any delays or other unforeseen consequences with the contractors as outlined by Mr AS.

88. I consider a fund of £10.5 m is the correct amount, taking into account the considerations above.
89. Turning to timing and the rent for suitable rental properties that are available in Country A: the wife says the husband's open offer in July 2022 provided for a monthly rental figure of a sum equivalent to £16,200 pm, supported by some specific examples of rental properties. Since then he has reduced the proposed figure. During this hearing the husband produced details of fourteen rented properties that he said he had provided in September 2022. According to the wife, none of the properties produced are in the two areas the wife wishes to live; three are in adjacent boroughs, one is not in the city, many do not have sufficient bedrooms on the basis that there should be at least one bedroom for the wife and each of the children with one guest room. That leaves three properties that would be suitable, albeit smaller than the wife wished and in less desirable areas at a rental cost of between a sum equivalent to £10,725-£13,407 GBP pcm and are unfurnished.
90. In his report Mr AS set out rental figures in the two areas as being between a sum equivalent to £7,508-£8,312 GBP pcm, i.e. lower than those put forward by the husband. These figures appear to be based on statistics rather than his first-hand knowledge and he made it clear in his oral evidence that the demand in the areas the wife seeks to rent reflects that they are '*very highly demanded areas*' and the figures he gives are not based on any properties that are currently available for rent and he had not personally been involved in a rental in these areas since 2019. When asked about timescales for securing rental properties he said that would '*take a very long time*'.
91. The evidence demonstrates the limited availability of rental properties of the size and in the area the wife seeks. There is a need for the wife and children to be able to move when they can without delay and the fact that the property will be unfurnished needs to be factored in. Whilst it may be possible to use some of the furniture the parties had previously, that is far from certain. In the circumstances that exist now, and bearing in mind the figure proposed by the husband in July 2022, the figure of a sum equivalent to £12,066 GBP pcm is the right level.
92. Turning to the question of how long the wife is likely to be in rental accommodation, Mr AS estimates about 3 months to acquire the land, 6 months to plan the design, between 20 – 26 months to complete the project, giving a timeframe of between 29 – 35 months. The husband contends for a shorter timeframe of 21 months based on Mr AS's answers to Mr Southgate but that gave no room for any delays inherent in any stage regarding such a project, which Mr AS recognised happened in most cases. In the circumstances of this case, I am satisfied the wife and children should not bear the risk of the likelihood of such delays and I consider a period of 30 months overall is the correct timeframe, based on 9 months for the purchase and design and 20- 22 months to complete the remainder of the project.
93. The allowance for rental should be £365,000.

Property in London

94. An issue where there is no common ground is whether the lump sum paid to the wife should include provision for a property in London. The wife says it should, based on the connection the parties and wider maternal family have with London, the facts that property was purchased here during the marriage, they have lived here for two and half

years, the children have gone to school here, the husband has been here, the paternal grandmother lives here and going forward it would provide a good location to meet as the children are likely to undertake further education in the US. In her oral evidence the wife described it as a 'like a holiday home' where she would be able to come, now the other properties they had previously had use of will not be available.

95. The wife has previously described the support she has felt from being present in this jurisdiction and I accepted that evidence in the children proceedings (paragraph 151 judgment 15 June 2022). This also needs to be seen in the context of her continuing responsibility for the children.
96. There are limited property particulars in the papers. Just prior to this hearing the wife visited a property on the market for £12.5m which she liked. In her previous offers she put the costs of a property being purchased here at £6m - £8m.
97. The husband considers such provision is not justified or appropriate in this case, particularly in a Part III claim. He argues that the family connections to Country A are strong: it is where they spent most of their married life; during the marriage the wife had only visited the UK occasionally for short periods; the wife plans to return to Country A as was her consistent evidence within the children proceedings. In circumstances where the court is considering a case on a 'needs light' basis such provision, on the facts of this case, is not necessary or appropriate.
98. On the facts of this case I disagree. I do consider such provision is appropriate and required, but not at the level advocated by the wife. There is a connection with this jurisdiction: both parties and all the children were born here, the wider families have properties here, the wife did visit here during the marriage, albeit on limited occasions, during the marriage the family were looking at having a home here although never finalised that, the family have now been here full time for over two and half years. I accept the wife's evidence that it would be a good location going forward for the family to meet and it is a place that she has found supportive during her marriage breakdown. That needs to be viewed in the context of the way the paternal family have operated in the past and the risk in the future as outlined in the judgments in June and July 2022.
99. It is not without significance that the husband chose to bring the wife and children to this jurisdiction when he considered they were at risk of harm, perhaps underpinning the connections the family do have here.
100. As regards the allowance for the property the court has limited information. The wife considered a sum of £6m was sufficient last year and I am satisfied that the right allowance to make, including costs of purchase, in light of all the evidence, is £4m.

Wife's expenses and Duxbury Fund

101. Budget schedules have been produced by both parties. The wife seeks a Duxbury fund of £15m which would provide an income of £766,000 pa if no tax is payable and £614,000 pa if tax is payable for the rest of her life.
102. It is accepted that the family had a very high standard of living and expenditure during the marriage, possibly up to £10m pa. Much of the family expenditure was managed through the company office with a number of staff allocated to manage this on a day to

day basis. When the husband ceased working for the family business in late 2019 that arrangement changed.

103. As a consequence of that change, the husband says the family were actively looking at ways to reduce their expenditure and he relies on email exchanges in July 2020 addressing that.
104. The July 2020 email exchanges were done in conjunction with the wife's sister, J, and the family accountant, S. That budget comes to about £1.3m and does not include provision for the wife's holidays (£244,000), her personal expenses (£240,000) and the amount the husband said she spent on credit cards (£60,000). That would increase the likely annual budget to nearly £1.9m. This did not include expenditure of the yacht, the costs of the husband's rent for a few months in Switzerland (up to EUR 8,000 pm) and the husband's personal expenditure. It is likely therefore that even on a reduced basis in July 2020 the annual family expenditure was in the region of £2m.
105. The wife's sister, J sent her own annual budget of £395,000 which was being used as a proxy, with the intention of multiplying it by three to reflect the fact that there were two people in J's home and six in the husband and wife's. This would result in a budget of £1.185m. The wife takes issue whether this is an appropriate comparable due to the difference in the standard of living between her and J, J's being lower.
106. The final budget reached in the process that took place in July 2020 provided a figure of £891,000. From that figure the rent for the family home needed to be deducted £243,000 and the children's expenses £93,240 and added back in the figures for holidays, personal expenses and credit card expenditure (respectively £244,000, £240,000 and £60,000) to a total figure in the region of £1.1m. The wife contends that all of these calculations produce a budget in excess of the amount she is seeking in her proposals.
107. In July 2022 the husband produced a budget prepared by Pennywise. It produced an annual expenses figure of £665,138pa (excluding children's expenses). The wife made a number of challenges to the underlying figures. For example, food was put in at £107,989 whereas in July 2020 £183,600 had been allowed, if there is allowance for inflation the wife contends the corrected figure is £205,516. The husband made a 30% reduction to account for the food he would have consumed, the wife doesn't accept this in the context when he was hardly present in the home at the relevant time.
108. In his oral evidence the husband accepted that the Pennywise budget only allowed for the replacement of one car every five years even though his proposal provides the wife with access to five cars for her and the children or staff. The wife estimated a further £26,400 was required to account for this.
109. The Pennywise budget made reductions for the wife's therapy costs. The husband accepted the wife's expenditure under this item in her own budget and an adjustment would be required to reflect that.
110. The wife contends if these changes are reflected the husband's Pennywise budget, it produces an annual figure of £829,447 (£665,138 plus food shortfall £120,909,

additional cars £26,400 and therapy shortfall £17,000), which is more than the figures she contends for in her Duxbury calculation. In addition, the wife makes the point that this budget does not include any allowance for items such as insurance, costs associated with a London home, travel to and from London, additional car running costs.

111. The husband accepts the principle of a whole of life Duxbury sum but he contends it needs to take account of the wife's own current and future assets as well. In his closing submissions the husband proposes an allowance of £3m to provide for the wife's income needs. It is based on an income need for the wife of a flat sum of £500,000 pa with no steps down, which the husband says is justified in this case. For illustration, he has demonstrated what the figures would be if there was a 33% step down at the end of the youngest children's tertiary education and the year after the wife turns 75 years. The husband also relies upon the various future resources that will be available to the wife in due course including the ABC shares, her one third share in her mother's ABC shares and her parents' property in Country A and London (the wife does not accept she has any share in her parents' property in London or her mother's ABC shares). In addition, the husband makes allowance for the wife to release capital from her property when she trades down when the youngest children complete their tertiary education.
112. In considering the wife's income claims the court needs to consider the standard of living enjoyed during the marriage. On any view for the majority of the marriage it was an extremely high standard of living with little, if any, limit on expenditure. There was some change in that position after the husband left the family business, but it still remained high. The email and budget exchanges in July 2020 were looking at a continuing annual budget in the region of £2m. In his oral evidence the husband stressed the importance of the steps that were being taken to reduce the budget in July 2020 due to their changed circumstances, but that was not reflected in his own expenditure in Switzerland, where he was renting a property at EUR 8,000 pm, and the rental property in London for the family which was £40,000 pm.
113. The budget contended for by wife of £766,000 is not unreasonable, it is evidence based and justified when looked at in the context of the standard of living enjoyed by the family during the marriage, both before and after the husband left the family business. It stands up to scrutiny when compared with the budgets the family were considering in July 2020 and the Pennywise budget relied upon by the husband. It does not include all the wife's expected expenditure (such as insurance, costs of running a London property, additional car costs etc).
114. The issue is what, if any, allowance should be made for the wife's future resources and any trade down by her in later life. It is likely that the wife will become entitled to future resources via the arrangements that have been made by her parents for her and her sisters. Her entitlement to the ABC shares is secure and known. However, the balance of the future resources are not guaranteed in amount. It is not known what, if any, resources will need to be realised by the wife's parents to meet any financial or care needs they may have. Whilst I do not wholly accept the way the husband puts his case, I do consider it reasonable in the circumstances of this case that there is some allowance for a property trade down in the context of the housing allowance made for the wife which could release capital, the wider financial resources she may become entitled to over and above her entitlement to the ABC shares and the stepping down of her expenses in a similar way as in *Juffali*.

115. Taking all these factors into account I have reached the conclusion that the Duxbury figure should be £10m.

Other capital items – cars, furniture, clothes, monies owed to the wife’s father and relocation costs

116. The wife seeks additional payments for a number of items. They can be summarised as follows:

- (1) Cars – in principle there is no issue between the parties that the wife should have access to 5 cars, including her Ferrari. The husband’s evidence was far from clear about the location or ownership of these cars. They are all held via a company structure, Q company. In the absence of concrete and reliable evidence about the location and the condition of these vehicles a monetary allowance should be made for replacement vehicles.
- (2) Furniture – the wife has obtained estimates to furnish the property in Country A and London of £1.9m and £1.3m respectively. The evidence from the SJE confirmed the estimates given for Country A assume a fully furnished property (their report makes an allowance of £1.025m). The specifications in that report had been done to the wife’s requirements. The husband says that some of the contents in the beach chalet/storage may be suitable. Having viewed the evidence as a whole I consider an allowance of £500,000 will be sufficient to cover what the wife may need to furnish the rented property in Country A (possibly being able to use some of the contents in storage) and the property in London. The cost of furnishing the property to be built in Country A has already been covered.
- (3) Clothes – a sum of over £8m in total is sought by the wife to replace her missing jewellery, watches and wardrobe, including her clothes, shoes and handbags according to the wife’s most recent offer on 13 March 2023. This is to replace the many items the wife says have been lost as a result of the mis-management of the movement of items from their apartment. The wife says she was a collector of clothes, shoes and handbags as illustrated by the photographs she has produced of the wardrobe she had in the apartment in Country A. In her oral evidence the wife rejected any suggestion that this part of her need was excessive and was divided between at least four places where she regularly visited. I consider there should be some allowance to reflect what has happened to the wife’s clothes, shoes and handbags to reflect the fact that she is largely going to need to start afresh as well as the missing jewellery. That sum should be £2m to reflect the fact that most of the items (in particular the jewellery) are unlikely to be available, there may be some limited items that remain in storage and the changed circumstances following the separation of the parties.
- (4) Monies owed to the wife’s father – these are sums made up of one year’s retained ABC dividend and monies lent for legal fees. Whilst the court understands the wife’s wish to repay these sums there is no suggestion

her father is demanding repayment. They can be considered in the wider picture as ‘soft loans’.

- (5) Relocation costs – the wife sought the sum of £50,000 in her open proposals as the costs of her and the children with their possessions going back to Country A. In his oral evidence the husband accepted he would pay for that.

Litigation fund

117. The wife seeks a litigation fund. Both parties express horror at the level of legal costs expended in this and the children proceedings. In reality the figure is over £9m if account is taken of what the husband has spent on his Country A lawyers.
118. The wife bases her claim for this fund on the history of the litigation between the parties, the mismatch between the husband’s evidence about wanting to comply with orders of the court and accepting the conclusions but failing to do anything to put them into effect. Regarding the children proceedings he says he fully accepts the conclusions reached by this court, relies on the PGF not taking up the offer of family therapy but expressed surprise at the suggestion that he could write directly to the PGF to apologise. He said he would consider that after consulting his lawyers. In relation to the final arrangements for the document to enable the wife and children to return to Country A the husband continues to obfuscate the process by not giving details of his Country A lawyers and it having to be done through his UK children lawyers even though the remaining issue is whether the Arabic translation is agreed. The husband’s answers in his oral evidence about whether or not he had Country A lawyers provided a classic illustration of his willingness to obfuscate matters before finally getting to the answer. He said he did not want his Country A lawyers to do anything else other than implement the document.
119. The wife contends the husband’s way of dealing with issues is through litigation, that is inevitably the conclusion of any dealings he has with people, including his lawyers in Country A, likely to be with Mr M and the PGF. The wife relies on the husband’s actions in the children proceedings where his allegations against the wife included accusing her of abusing alcohol, her mental health and her unfitness as a mother before conceding during the hearing that those matters were not being pursued.
120. In her closing submissions it was put on her behalf that the wife has been caught up in a dispute between two men from one of the most litigious families in the world, the husband has relentlessly pursued issues and then not pursued them. When asked by Mr Southgate about the harm she feared from the husband in the context of needing a litigation fund and a property in London the wife responded ‘...*I have been through hell. My children and I have been through hell. No one will understand what we have been through and, yes, I need my own security. The only place I have felt safe was in the UK because of these proceedings and being protected by this court. That is the only way I got my lawyers to get paid. I was in a very bad situation. So yes, I am a human being and I am going to feel afraid of anything that could happen in the future...*’.
121. The wife relies upon the fact that the husband took advice prior to notifying the wife of the Talaq and there is some suggestion that this was a pre-planned move to prevent the wife issuing divorce proceedings here due to the wholly inconsistent evidence the husband gave about when he says the marriage ended.

122. Having considered the circumstances of this case, including that the wife will now have a base in this jurisdiction, with accessibility to legal advice here, and any orders (subject to any jurisdiction issue) that can be made for legal funding I do not consider, on balance, that the claim for a litigation fund is justified or necessary.

Submissions

123. Both parties have provided detailed written closing submissions for which the court is very grateful. The focus of the husband's submissions is what he submits is the framework of a Part III claim and the need to consider this case on a 'needs light' basis (per Moor J) and in the context outlined by Roberts J in *Juffali v Juffali [2017] 1 FLR 729* [133].
124. That is not accepted by the wife who submits there is no such restriction within the statutory framework and the applicable principles are set out by Lord Collins in *Agbaje*. The court needs to consider the matters set out in s 18 1984 Act.

Jurisdiction in relation to the Part III claim

125. I am satisfied that there is jurisdiction for an order to be made under s16. In fact Mr Southgate confirmed at the start of this hearing that was not an issue, and the husband accepts some financial provision should be made albeit in the framework of a Part III claim.
126. I am satisfied the wife does have a connection with this jurisdiction in the following ways: (i) she was born and spent her early years here; (ii) she undertook her second degree here; (iii) her parents have retained a property in London over many years and regularly visit; (iv) the family purchased a property in Marylebone in 2013 and there continued to be discussions up until 2019 about doing it up, although that never materialised; (v) she continued to visit the UK reasonably regularly, for example on 6 occasions between 2012 and 2020; (vi) she has lived and been based living here since August 2020 and the younger children have attended school here; (vii) the husband has been based living here since September 2020, confirming his residency here with HMRC from September 2020 and in the welfare proceedings in July 2022 the husband's position was he was going to remain living and based in London (as recorded in paragraph 13 of the July 2022 judgment). In his oral evidence the husband said his intention on the sale of the property on X Street is he planned to move to the larger property on Z Street; (viii) the paternal grandmother is based here, sees the children regularly although the husband suggests she may return to live in Country A; (ix) it is of note that the husband required the wife and children to come to the UK when he sought to protect them.
127. It is right to weigh in the balance the length of time and the strength of connections the wife has with Country A, as described in her written evidence in the children proceedings. The family were largely based there for most of their marriage and had the husband not become estranged from the PGF and the marriage remained in place it is likely they would have remained based there. However, that is not the position now. In the light of the events over the last few years I accept the wife's evidence that whilst she will (subject to the various pre-conditions being fulfilled) return to Country A with the children but she has put down some roots here and is likely to spend significant periods of time here in the way she has described. The situation within the paternal family remains fluid

and dynamic; illustrated by what has happened in the past regarding the severance and then renewal of relationships within the paternal family and all that flows from those changes. I accept her evidence of the impact on her and the children of recent events and the way she feels protected and supported in this jurisdiction in the context of the fractured relationships within the paternal family which show limited sign of abating. That stability is part of the wife's needs and will undoubtedly be of benefit for the children.

Discussion and decision

128. It is clear that under the framework of the principles in *Agbaje* there have been a number of first instance decisions that have determined Part III claims. Each of the parties in this case rely on them to a greater or lesser extent recognising that each case is fact specific, the outcomes are on a spectrum that is fact sensitive and the wider importance of there being general consistency in approach to the way courts determine applications made under the same statutory provision.
129. Having determined a number of factual matters as set out above it is necessary now to stand back and consider those factual conclusions in the context of the case as a whole and the statutory framework, in particular the s25 considerations under s18, all the circumstances of the case including consideration of the factors in s16.
130. This was a long marriage where there has been no issue about the contribution the wife made as mother and homemaker. That is particularly so in the circumstances of this case. First, in recognition of the dynastic nature of the paternal family and the need for a male heir she underwent a number of procedures to ensure that was achieved. Second, the husband accepts that for a part of their marriage he was away for significant periods of time due to the demands of the family business and his own health and related personal issues. In his oral evidence in the children proceedings he volunteered he was away for about 75% of the time, correcting it to 50% the following day. There is no suggestion that the wife has been other than fully available to support the children and her husband, including, for example, actively engaging in ways to help reduce their outgoings in July 2020. The stability the wife has provided for the children has greatly benefitted them and that is likely to continue for the rest of their minority, and probably beyond. It is in their interests that the wife has the financial support and autonomy to continue to provide that stability.
131. The financial resources that are available to the parties are at least £70m. They are based in or readily accessible in this jurisdiction. The financial resources could be more but for the reasons outlined above it is difficult to provide any detail due to the unreliability of the husband's evidence. I am satisfied that the sum of £70m is not fragile, as suggested by the husband. The resources have largely been built up during the marriage.
132. I am satisfied the husband has a significant future earning capacity. He is a very experienced and successful businessman, he has clearly thought about future business opportunities as outlined in the magazine interview in the papers. Whilst I accept in that type of interview the purpose will be to talk up what you plan to do I am satisfied that the evidence about the arrangements for Companies N and M demonstrate that they are more than company vehicles to try and resolve the outstanding business structures left over from the departure by the husband from the family business. The inconsistent accounts the husband has given about the way they operate, coupled with

the high staff costs of Company N and the expertise of the staff all point towards the husband being far more advanced in realising his earning capacity than he is prepared to accept. No one has suggested the wife has a significant earning capacity that can be realised to impact on any order made in this application.

133. Both parties are likely to have future financial resources that become available to them. The wife's father has taken steps to make provision for his daughters in a way that circumvents the male inheritance regime under Sharia law. What he has done does not appear to be unusual and to his credit in his oral evidence the husband did not seek to criticise or challenge that, accepting that the wife would follow her father's wishes regarding those arrangements. In relation to the wife there is less clarity about the extent to which the assets in which she has a contingent interest may need to be utilised by her parents prior to their death. Also, there is limited information about the P Trust.
134. In relation to the husband it is not in issue that he remains estranged from the PGF at the moment but, as has been demonstrated with what happened with his brother, that could change. Although he says he accepts the court's conclusions in the fact finding hearing he has not apologised to the PGF. The husband remains the eldest son, it appears likely the PGF has retained control of a significant number, if not all, of his assets which are considerable. According to Sharia law the husband would inherit in the absence of steps taken to prevent that.
135. The standard of living during the marriage was very high. The level of expenditure illustrates that. Even when the husband was seeking to reduce expenditure with the assistance of the wife and her sister the annual expenses still remained high. There was limited, if any, demonstrable change by the husband when looking at the level of rent he paid in Switzerland, the rental of a property for LM in London, the level of rent for the first property for the wife in London. Having said that, other expenditure, such as for the yacht or the funding of other building projects, had clearly changed. The court recognises that the wife's future needs need to reflect the changed situation, the separation of the parties and the likelihood of changes at appropriate points over the life of any Duxbury fund to reflect reduced expenses and/or other resources becoming available for adequate provision for her reasonable needs. Those changes are likely to be when the youngest children have completed tertiary education and at the age of about 75 years, along the lines outlined by Roberts J in *Juffali* [161].
136. Each party has made a significant contribution to the marriage. The children will remain based with the wife as their main carer and spend significant times with the husband.
137. The position of the children should not be lost. The two younger children have at least 14 more years in education, as they are likely to study beyond a first degree. The eldest is the male heir to the family business and is going to need to be supported in how to manage and navigate the difficult and fractious paternal family relationships. The burden of that is likely to fall mainly on the wife who has demonstrated a consummate skill in not being drawn into the heat of the conflicts within the paternal family. Both parents have had to manage the recent ill health of the younger daughter and are likely to need to provide her with the support she will require in the future.
138. Mr Southgate submits with some force that any award made by this court should be circumscribed by the limits of the wife's connections with this country. Whilst I accept that is a factor the court should take into account it is but one of many other factors and,

in my judgment, the amount awarded should not be dictated by that factor in the way he seeks to suggest in the particular circumstances of this case.

139. Standing back and considering what the wife's needs are bearing in mind the factors considered above, they can be summarised as follows:

Property in Country A	£10,500,000
Rental allowance Country A	£ 365,000
Property in London	£ 4,000,000
Furnishings/decoration	£ 500,000
Clothes/jewellery	£ 2,000,000
Duxbury fund	£10,000,000
Relocation costs	£ 50,000
Total	£27,415,000

140. Taking into account the particular circumstances of this case, the financial resources and needs now and in the future, including the considerations under s16, I have reached the conclusion that the wife should receive the sum of £27.415 m as a clean break.
141. The parties will need to liaise about the terms of the order, the structure and timing of how this sum is to be paid. In addition there will need to be liaison about the cars (either the actual cars or a sum in lieu). The timing needs to take into account sufficient sums being available to enable the wife to secure accommodation without delay.