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*Judgment: approved by the court for handing down  
(subject to editorial corrections)\**

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Delivered: 29/11/2024

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

BETWEEN:

JAMES SEALES

Appellant/Respondent

and

ALISON SEALES

Respondent/Petitioner

Mr Seales appeared as a Litigant in Person  
Ms O'Grady KC and Mrs Gilmore BL (Keown Nugent Solicitors) for the  
Respondent/Petitioner

KINNEY J

*Introduction*

[1] This is an appeal from a decision of Master Bell in an application for ancillary relief brought by the respondent/petitioner (the wife). The Master determined that the assets of the parties should be divided on the basis of 75% to the wife and 25% to the appellant/respondent (the husband). He also awarded £50,000 costs to the wife. The husband has appealed that decision. He contends that the appropriate division of assets should be on a 50/50 basis.

*Background*

[2] The couple were married in July 1993 although they had been in a relationship for some time before that. They separated after 19 years of marriage in January 2012. In November 2013 a Decree Nisi was granted based upon the husband's unreasonable behaviour which included allegations of serious domestic violence. There were five children of the marriage and three are now deceased –

James, Ian and Jason. The two remaining children do not feature in the case in terms of financial dependence.

[3] The husband is now 67 years old and the wife 57. Substantial assets were owned by the couple during the course of the marriage, but it is agreed that there are now only three assets remaining. The first is a sum of money which represents the sale proceeds of a property in the sum of £190,464 at the time of hearing. There is also the former matrimonial home, where the wife currently resides, last valued at £435,000 and a further property located in Crossgar valued at £375,000. The parties have agreed these valuations for the purposes of these proceedings.

[4] The separation of the husband and wife in January 2012 was most immediately precipitated by the arrest of the husband for murder. The husband was subsequently convicted of the murder of Philip Strickland after a jury trial. The conviction was upheld by the Court of Appeal. The husband is currently serving a life sentence with a minimum tariff of 15 years. His earliest release date from prison is in 2027. Two of his sons, Ian and Jason, admitted their roles in the murder and pleaded guilty. They were also convicted of the murder, and both received life sentences. One of them, Ian, was a prosecution witness in his father's trial. Tragically, both Ian and Jason have subsequently died. In his sentencing remarks Lord Justice Weir referred to the husband as the prime mover, director and controller of events. He said that Ian and Jason had a violent upbringing at the hands of the husband and had a miserable childhood under his dominance.

[5] The conduct of the husband was the primary focus of the appeal hearing.

[6] The husband argued that his criminal conviction for murder should not be taken into account in considering the ancillary relief proceedings. He maintains his denial of guilt. He has engaged with the Criminal Cases Review Commission over the years and there was some evidence of ongoing correspondence between the husband and the CCRC. I attach little weight to this correspondence.

[7] The husband also denied any domestic abuse or violence by him in the marriage. He argued that the court should instead take into account the conduct of the wife. The husband alleged that she had sold significant amounts of machinery and other property belonging to the husband without his permission. She had dissipated assets and maintained herself from the monies raised from the sale of those assets.

[8] The husband asserted that he had held the family together and was the main breadwinner. He was the main carer for the children and funded an extremely comfortable lifestyle for the family. He alleged that his wife had very significant issues with alcohol and the misuse of medications. He said that his wife's GP would not prescribe her medications in volume but dispensed items one or two at a time. She was receiving these nearly every day. The husband maintained that the wife had access to a number of bank accounts during the marriage. During his evidence

he gave a long and detailed list of assets that he claimed he had purchased or that had been purchased by limited companies which he controlled. I requested a schedule of these assets to include evidence supporting his assertions of purchase price and disposal. Despite repeating that request on a number of occasions the husband never produced such a schedule.

[9] The husband reported a list of items to the police as being stolen by his wife. However, at the time he made that report he was aware that items on the list had been sold by his sister and mother. The information held at that time included receipts for the sale of a number of items provided to him by his sister and mother. He did not inform police of this.

[10] The husband also gave evidence of his financial support for his wife during the marriage. He referred to holiday trips in America. He also told the court that he had bought a Toyota land cruiser for his wife costing £89,000.

[11] The husband denied that he had ever physically abused his wife. He was referred to specific allegations including an incident in December 2007 when police received a report from the wife that she had been assaulted by the husband. The husband maintained that the police had brought his wife home to him and said that she was drunk. He denied that he had broken the wife's nose in 1988 and that she had subsequently attended hospital. The wife had also reported various incidents after the husband's arrest in 2012 including death threats that she had received and the suspicious behaviour of unknown individuals at the former matrimonial home. The husband denied any involvement in either the death threats or with any of the individuals who may have attended at the former matrimonial home.

[12] The wife in her evidence gave a history of the relationship in which she said that the husband was controlling, jealous and violent. She referred to one incident in July 1988 when the husband head-butted her and broke her nose. She recalled occasions when she had contacted the police. On at least one occasion she had made a statement to police but subsequently agreed to withdraw it under pressure from the husband. The wife's GP notes and records disclosed a long history of depression leading to suicidal ideation. There was no record of daily visits to the GP or daily prescriptions of medication as alleged by the husband. The wife denied such attendances. The wife described the arrest of her sons in January 2012 as feeling like a bereavement. After the arrest of the husband, she felt constantly scared and got extra security placed in the house. She asserted that one of her sons told her that the husband had paid for a Dublin gang to attack her and possibly kill her.

### *The law*

[13] In reaching my decision on the appropriate division of assets I have considered the factors set out in article 27 of the Matrimonial Causes (Northern Ireland) Order 1978 (the 1978 Order). These are:

“27.—(1) It shall be the duty of the court in deciding whether to exercise its powers under Article 25, or 26, 26A or 26D and, if so, in what manner, to have regard to all the circumstances of the case, first consideration being given to the welfare while a minor of any child of the family who has not attained the age of 18.

(2) As regards the exercise of the powers of the court under Article 25(1)(a), (b) or (c) 26, 26A or 26D in relation to a party to the marriage, the court shall in particular have regard to the following matters —

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;
- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the marriage;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
- (g) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;”

[14] None of the children in this case are minors. The husband is a serving prisoner who cannot expect release from prison for at least another three years. The husband’s needs are currently being met within a custodial environment.

[15] The wife did not engage in separate employment during the currency of the marriage. She currently resides in the former matrimonial home and is unable to work. Both parties enjoyed a comfortable standard of living before the breakdown of the marriage. The marriage ended after 19 years. The husband is 67 years old, and the wife is 57.

[16] The husband has no relevant mental or physical disabilities disclosed to the court. The wife presented evidence through GP reports, supported by GP notes and records, that she has suffered from long-term anxiety and depression. She has no formal diagnosis of post-traumatic stress disorder, but her GP has assessed her as suffering many of the symptoms in keeping with PTSD. She has had suicidal ideation over a protracted period of time. She is on long-term antidepressant medication. It is the wife's belief that her husband wishes to harm her and can persuade others to physically harm her.

[17] I am satisfied that each of the parties contributed to the welfare of the family and there is no basis to reach a conclusion other than that the contribution made by each was equal.

[18] The central issue in this case is on the issue of conduct, primarily that of the husband. Article 27 of the 1978 Order requires the court to consider the conduct of each of the parties if that conduct is such that it would be inequitable to disregard it.

[19] In *OG v AG* [2020] EWFC 52 the court considered the analogous provisions under the Matrimonial Causes Act 1973 and said:

“34. Conduct rears its head in financial remedy cases in four distinct scenarios. First, there is gross and obvious personal misconduct meted out by one party against the other, normally, but not necessarily, during the marriage. The House of Lords in *Miller v Miller* [2006] UKHL 24, [2006] 2 AC 618 confirmed that such conduct will only be taken into account in very rare circumstances. The authorities clearly indicate that such conduct would only be reflected where there is a financial consequence to its impact. In one case the husband had stabbed the wife, and the wound had impaired her earning capacity. The impact of such conduct was properly reflected in the discretionary disposition made in the wife's favour. Mrs Miller alleged that Mr Miller had unjustifiably ended the marriage discarding her in favour of another woman. Therefore, she argued that Mr Miller should not be permitted to argue that their marriage was short. This argument was rejected by the House of Lords which held that the conduct in question, although greatly distressing

to Mrs Miller, should not find independent reflection in the court's decision.

35. The conduct under this head, can extend, obviously, to economic misconduct such as is alleged in this case. If one party economically oppresses the other for selfish or malicious reasons then, provided the high standard of "inequitable to disregard" is met, it may be reflected in the substantive award.

36. Second, there is the "add-back" jurisprudence. This arises where one party has wantonly and recklessly dissipated assets which would otherwise have formed part of the divisible matrimonial property. Again, it will only be in a clear and obvious, and therefore rare, case that this principle is applied. In *M v M* [1995] 2 FCR 321, Thorpe J found that the husband had dissipated his capital by his obsessive approach to the litigation, which had included starting completely unnecessary proceedings in the Chancery Division. That dissipation was reflected in the substantive award. Properly analysed, that decision can be seen as a harbinger of the add-back doctrine rather than a sanction reflecting a moral judicial condemnation.

37. In this case the sums loaned by the husband to TT will all be added back to the matrimonial pot at full value. The husband does not resist this.

38. Third, there is litigation misconduct. Where proved, this should be severely penalised in costs. However, it is very difficult to conceive of any circumstances where litigation misconduct should affect the substantive disposition.

39. Fourth, there is the evidential technique of drawing inferences as to the existence of assets from a party's conduct in failing to give full and frank disclosure. The taking of account of such conduct is part of the process of computation rather than distribution. I endeavoured to summarise the relevant principles in *NG v SG (Appeal: Non-Disclosure)* [2012] 1 FLR 1211, which was generally upheld by the Court of Appeal in *Moher v Moher* [2019] EWCA Civ 1482. In that latter case Moylan LJ confirmed that while the court should strive to quantify the scale of undisclosed assets it is not obliged to

pluck a figure from the air where even a ballpark figure is in fact evidentially impossible to establish. Plainly, it will only be in a very rare case that the court would be unable even to hazard a ballpark figure for the scale of undisclosed assets. Normally, the court would be able to make the necessary assessment of the approximate scale of the non-visible assets, which is, of course, an indispensable datum when computing the matrimonial property and applying to it the equal sharing principle.”

[20] It is clear in my judgement that personal misconduct, which will include physical or sexual abuse, coercive and controlling behaviour or psychological emotional or other abuse, must be of such an exceptional nature that it is, in the language of article 27, inequitable to disregard. In *OG Mostyn J* referred to the case of *Miller* decided in the House of Lords. In that case, Baroness Hale said at para [145]:

“This approach is not only just, it is also the only practicable one. It is simply not possible for any outsider to pick over the events of a marriage and decide who was the more to blame for what went wrong, save in the most obvious and gross cases.”

[21] There is an increasing awareness not just of the nature of domestic abuse and its consequences but also of its incidence. Master Bell, in the decision under appeal, referred to the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 and to the implications of criminalising coercive control. He stated at para [41]:

“It is clear, in my view, that following the creation of that criminal offence, with such a significant maximum sentence, there has to be a major shift in legal thinking, and it can no longer be argued (if it ever could have been) that it can be equitable to disregard coercive control conduct by one spouse against the other.”

[22] There is no doubt that coercive control is a relevant factor to be considered in assessing conduct and cases of coercive control should be considered where appropriate in ancillary relief proceedings. However, that does not lower the conduct hurdle which must be surmounted in financial remedy proceedings. The trend of legal authorities makes clear the court is rarely assisted by a lengthy rehearsal of the allegations and assertions of bad conduct felt by either or both parties during their relationship. Coercive control is not a form of behaviour requiring singular or different treatment in ancillary relief.

[23] Where an allegation of domestic abuse is made the burden of establishing the facts of such abuse is on the party making the allegation. The court must be satisfied

on the balance of probabilities that the occurrence of the alleged event or events was more likely than not. It is only to be considered where it would be inequitable to disregard it. Each case will turn on its own facts. In the recent judgement of *N v J* [2024] EWFC 184, Peel J set out his views on this issue of conduct which I quote and endorse:

“38. To these observations, I add a few further comments:

- (i) It is not altogether surprising that the authorities suggest a financial consequence is required. The s25 criteria (and their equivalent in the Civil Partnership Act 2004) are listed as signposts for the court in considering what financial remedy orders to make. In other words, they are taken into account by the court to the extent that they affect the distributive process under s23 and s24. It would be highly unusual to include a factor which has no financial consequence under the terms of an Act which is directed to reordering the finances of the parties.
- (ii) Even in those very rare cases where there is a possible financial consequence of the alleged conduct, the court must decide whether there is any need to litigate the allegations. It seems to me that in the great majority of cases, the impact on the alleged victim can and ordinarily will be taken into account by reference to the conventional criteria regardless of whether domestic abuse has in fact taken place. One example is behaviour which affects somebody's earning capacity. Courts routinely weigh in the balance diminished earning capacity (and of course earning capacity is a specific consideration under s25). It is hard to see why there would be any need to embark upon a lengthy and conflicted dispute about the cause of the diminished earning capacity. What matters is reflecting the limited earning capacity in the overall award. Another example might be behaviour which leads to additional needs such as medical costs. Again, it is hard to see how a court will be assisted by detailed inquiry into the cause of the need; what matters is the individual's requirements and the extent to which they should be met going forward. In other words, I doubt



very much that domestic abuse would have a material impact on the vast majority of cases, such that it needs to be litigated.

- (iii) It is important to remember that the court has a duty to consider all the s25 criteria. It seems to me that ordinarily the court will be able to arrive at a fair and balanced decision by reference to the usual factors such as needs, resources, contributions, health, age, and duration of relationship without any reference to conduct. I struggle to envisage many situations where personal misconduct will have a material impact on the ultimate evaluation.
- (iv) It is not for the financial remedies court to impose a fine, a penalty, or damages upon a party for conduct. Nor is it for the financial remedies court to moralise or apportion blame in how the parties behaved towards each other during their time together. I consider such a task, looking at the whole history of the nuances and complexities of a relationship, would be fraught with difficulty, and one which is not generally required in the overall exercise of broad discretion which is entrusted to the court.
- (v) I do not find it easy to see how personal misconduct, with no adverse financial consequence, could readily be quantified in a principled manner. If the court increases the award because of misconduct, but in the absence of any identifiable financial impact, how is that added sum to be quantified?
- (vi) I occasionally have the sense that parties who wish to rely upon conduct do so in order to seek from the court validation and justification of their own sense of ill treatment at the hands of their partner during the marriage, and/or condemnation of the other party; in short, personal vindication. Whilst that may be understandable at a personal and human level, it is not the function of the court to make findings for the sake of it and simply to assuage one or other party's sense of grievance and injustice. I repeat, misconduct must be directly

relevant to the distribution of finances to be entertained.

- (vii) As identified by the Law Commission report all those years ago: “Nor do we think that to expose the parties to this kind of remorseless investigation into the, sometimes distant, past would be helpful in encouraging them to come to terms with their new situation.” To expose parties, in particular the alleged victim of domestic abuse, to unforgiving litigation which explores in detail that very domestic abuse, is not a step to take lightly.
- (viii) The task of the court in these cases is to look forward, not back; to set the parties as far as possible on the road to financial independence. To embark on a detailed inquiry into conduct seems to me to be a retrograde step, particularly as divorces and dissolutions now proceed on a no-fault basis.
- (ix) If domestic abuse is routinely litigated as a conduct factor, there would undoubtedly be a proliferation of such cases, and a direct impact on court resources. Domestic abuse allegations are almost always disputed, and frequently met with cross allegations. Cases would need more hearings and longer time estimates. The need for Qualified Legal Representatives where the parties are litigants in person would expand dramatically. Applications for additional evidence (police, medical, psychiatric and so on) would ensue. Costs would increase markedly. It is hard to see how cases involving allegations of domestic abuse would settle before final hearing, given the charged nature of the subject matter. The implications for the system of financial remedies are profound.

### *Conclusions*

39. I conclude as follows:

- (i) The high bar to conduct claims established in the jurisprudence (cases referred to in this judgment are examples) is undisturbed by the recent focus

on domestic abuse in society and the family justice system.

- (ii) I accept that the statute does not specifically refer to a financial consequence, and it is therefore wise not to rule out completely the theoretical possibility of conduct being taken into account absent such a financial impact. Nevertheless, as the review of authorities above suggests, such cases will be vanishingly rare.
- (iii) The preponderance of authority clearly militates firmly in favour of financial consequences being a necessary ingredient of a conduct claim. This applies as much to domestic abuse allegations as to other types of personal misconduct.
- (iv) The alleged conduct (even if it reaches the threshold and has a financial consequence) must be material to the outcome. In the vast majority of cases, a fair outcome is ascertained by reference to the other s25 criteria (including needs and impact on earning capacity) without requiring the court to examine conduct.
- (v) To inquire into conduct must be proportionate to the case as a whole.

40. In short, the dicta in both *OG v AG (supra)* and *Tsvetkov v Khayrova (supra)* which attempt to distil the learning on both the law and procedure, remain, in my judgment, sound. Courts should continue to case manage conduct allegations robustly at the earliest possible opportunity.”

[24] The wife and husband both gave evidence. The wife alleged a number of incidents of violent physical abuse along with ongoing coercive conduct throughout the years of the marriage. The husband denied the allegations.

[25] The husband also made a range of allegations regarding the behaviour of the wife, her lack of contribution and participation in the family, her alleged alcohol and substance misuse and her refusal to work. He was dismissive of the allegations made by the wife.

[26] There were two features of the husband’s evidence which were particularly stark. The first was the manner in which he addressed various incidents during the

course of the marriage. For example, he described in intense detail the purchase of the matrimonial home, the work that was carried out to the house, who did the work and when it took place. He was also extremely detailed in describing when and how he bought assets and who he bought them from. However, this level of detail, unsupported as it was, was contrasted by his considerable vagueness when it came to any of the issues between the parties. He was also very vague when challenged about inconsistencies in his previous accounts. One small example of the latter was the husband's description of buying a Toyota vehicle for the wife at a cost of £89,000. He referred to this sum several times during the course of his evidence as an example of how well he had treated the wife. However, the husband had identified a considerably lower purchase price of £59,000 for the vehicle in an earlier affidavit. He initially described this discrepancy as a typographical error in the affidavit. It was then put to him that he had set out the same figure of £59,000 for the purchase of the vehicle in a subsequent affidavit. The husband then tried to explain that in fact the car cost £59,000 but that he had added £30,000 of extras to it. He was unable to provide any satisfactory breakdown of this expense or the other inconsistencies in his account. He denied instructing forensic accountants despite written evidence of the same. He denied knowing that Philip Strickland had been identified as one of his assailants shortly before he murdered Mr Strickland despite clear evidence to the contrary. There were many other examples where the husband had made fulsome explanations only to be challenged in cross examination on the basis of contemporaneous documents. Again, a small example is where the husband denied providing keys of a property at Raffrey Road to a friend, Mr B. A letter was written by Mrs B to the husband in which she referred to Mr B being provided with keys. His response was that counsel would need to ask Mr B about this.

[27] The second feature of the husband's evidence was to continually make references to evidence that he said he held which could prove some of the assertions he made. This evidence was both in documentary form and also through the evidence of third parties. However, none of that evidence was produced to this court or indeed to the lower court where it was raised in similar circumstances. The husband refused to provide documentary evidence that he said he held relating to the sale and purchase of assets which, he claimed, had been carried out by his wife whilst he was in custody. The wife accepted that she had sold a small number of assets which would appear to have totalled some £56,000 and which was reflected in the forensic accountant's report prepared on behalf of the husband (although he denied giving any such instructions for the preparation of such a report). However, the evidence available to the court demonstrated that where there was any documentary trail of the sale of other assets, the sale was not conducted by the wife.

[28] This was particularly evidenced in documents which had been provided from the file of solicitors who previously acted for the husband. Both the husband and the wife had jointly instructed Diane Coulter as their solicitor during the course of the marriage. The husband subsequently instructed RP Crawford Solicitors. He then changed his instructions to Patrick Fahy solicitor before returning to RP

Crawfords. In the course of the hearing before the Master, the husband authorised the release of some information from RP Crawford's files.

[29] One particular aspect of the solicitors files referred to the sale of land owned by the husband at Burn Road. This sale was conducted after the husband had been remanded in custody. The husband said he was not aware that the property had been sold until November 2012 when he was told that it had been transferred to his sister. The husband insisted that he did not authorise the sale and nor did he execute a transfer. However, amongst the papers from RP Crawford was correspondence from Diane Coulter to say she had received instruction directly from the husband relating to the sale of the land at Burn Road. RP Crawford then sent £500 to the estate agent on the instructions of the husband in relation to the sale. There was also a telephone attendance by RP Crawford that a call had been placed to the solicitor by the husband from prison. The attendance note instructed the solicitors to telephone Diane Coulter to "check that she is proceeding to sell Burn Road via Tim Martin estate agents ASAP." There was correspondence from Diane Coulter confirming that she had had a video link consultation with the husband and had put in place arrangements for the property to be sold.

[30] The transaction was ultimately carried out through the offices of Patrick Fahy solicitor on behalf of the husband. The property was transferred to the husband's sister and then apparently sold on to a third party. Patrick Fahy subsequently confirmed that he had attended on the husband in prison and he had executed the transfer. The husband continued to assert that he had not been a party to this transaction. At the hearing of this case, he produced for the first time a letter from the prison authorities which purported to confirm that the husband did not have a legal visit on the date which was entered on the land transfer document. That, however, was as far as this correspondence went.

[31] I attach little weight to this letter. The date of the legal document effecting transfer is not necessarily the date on which it was signed. Indeed, it is usual for a solicitor to have a document executed well in advance during a transaction and to hold it against final completion of the transaction. This must be particularly so when the executor of the document is difficult to access, such as in this case. I am entirely satisfied that the husband organised and directed the transfer of the property to his sister.

[32] The documents provided from the husband's solicitors were replete with contemporaneous documentary evidence of the involvement of the husband in the sale of livestock and machinery. These included attendance notes confirming instructions received from the husband along with the consequential correspondence to third parties to give effect to those instructions. The solicitor was also directed to contact individuals who were carrying out the instructions of the husband. Despite facing these documents, the husband simply denied giving any instructions to RP Crawford solicitors other than for his criminal proceedings and denied giving instructions to other solicitors regarding assets.

[33] The position taken by the husband is simply incredible. If the husband's evidence is correct then a series of solicitors from three different legal practices are lying about receiving instructions from him. Quite apart from the sheer unlikelihood of this happening, no apparent reason or motive for the solicitors to have lied in the way that the husband suggests has been provided. All the solicitors are apparently inventing conversations on a wholesale basis including some which are in fact consistent with the husband's position. The information provided from RP Crawford's files shows a consistent and appropriate course of conduct by those solicitors based on the initial attendance on the husband. Shortly after that attendance note there are telephone calls to start putting the instructions into action. Each of these items corroborates the others and, most importantly, the original attendance note. The husband in his evidence simply continued to deny that he ever gave anyone permission for the sale of assets and that more emphatically he told RP Crawford that nothing was to be sold. This means that not only were his solicitors at the time on a frolic of their own, they also created a false paper trail. It is clear that paper trail could not have been created retroactively (I simply add this for clarification and not because I think it was likely to have happened) because contemporaneous communications with third parties are clearly recorded and dated. The husband's case is completely untenable. As a result, I place little weight on the veracity of the evidence provided by the husband.

[34] The evidence of the wife however was more compelling. Her evidence was supported by the documentation which was available. This demonstrated both her physical and mental condition throughout the marriage, her contemporaneous reporting of threats that she had received whilst the husband was in custody and her fear that the husband was involved, and that she had suffered significant injuries consistent with the allegations she had made against the husband. She spoke of the additional safety measures she had installed at the former matrimonial home for her own safety on the advice of police. Her evidence regarding the very limited sale of assets was supported by both the evidence and the documents referred to above showing the involvement of the husband in the sale of various assets and also by the complete absence of any evidence connecting her to any sales of assets other than those disclosed by herself. I am satisfied the wife's evidence was truthful and not exaggerated.

### *Conduct*

[35] I am satisfied that the wife was subjected to significant domestic violence at the hands of the husband. I am satisfied that the husband exercised control over the family finances and the wife had little or no say over how money was spent. The wife was the subject of coercive control by the husband over the years of the marriage and this undoubtedly contributed significantly to her psychological distress and to the mental health issues manifested by her. I am satisfied he abused her physically, emotionally and economically. The wife was isolated from support and independence and experienced ongoing regulation of her everyday life.

Everything remained within the husband's control, although he used his wife on occasion to facilitate opening bank accounts in her name and facilitating the movement of assets. The husband's behaviour undoubtedly increased his wife's vulnerability and impacted on her ability to engage in employment or secure a means to generate income. I am satisfied that the husband's conduct caused a discernible financial impact on the wife.

[36] A second aspect of the husband's conduct was the impact on the wife of his conviction for the murder of Philip Strickland. Two sons of the family, Ian and Jason, were also convicted of the murder. The trial judge in his sentencing remarks was clear that the husband was the prime mover in the offence. One of the sons, Ian, gave evidence against his father during his trial. In these proceedings the husband continues to deny any involvement in the murder of Mr Strickland. He challenged his conviction in the Court of Appeal and was unsuccessful. His conviction stands. In his evidence the husband refused to accept that his conviction, the circumstances of the murder and the involvement of family members with such disastrous consequences, had any impact on the wife. He refused to accept that he had any responsibility for involving his sons in the murder or that this would also have an impact on their mother. He also denied that the wife attempted suicide due to the husband's criminal actions. The medical notes and records provided by the wife support her case. It was the husband's case that his conviction for murder and the convictions of two of the children of the family for murder had nothing to do with this ancillary relief application. He then said in evidence that from what he could gather from the community there was nothing detrimental held against him or the family about the murder but that there was other "detrimental stuff" about his wife including her alcohol intake and the consumption of medications.

[37] The husband's evidence on this point is untenable. His position is that there was no impact whatsoever on his wife resulting from the convictions for murder or the ongoing publicity that arose. His case was that the only community impact was because of the wife's own activities. However, there was absolutely no evidence of any activity of the wife which could draw the ire or the disapproval of the community.

[38] It was put to the husband that the wife was unable to get a job after the murder conviction. His response was to comment that she would not need a job because of the money that she had taken from him.

[39] A further incident relating to the husband's conduct was a press report linking him to the disappearance of a young woman, Lisa Dorian, which occurred in 2005. The case attracted considerable media attention. The husband contributed to a newspaper article relating to the case in 2015. The article said that the husband told the reporter he knew who had killed Lisa Dorian and knew where her body was. The husband denied that he had said this to reporter but was unable to explain why he had carried out the interview in the first place. The wife did not know that the husband was going to give this interview in 2015. The husband however did not

accept that this had any impact on the wife. I am satisfied this behaviour and the husband's attitude made it even more difficult for the wife to try to establish a normal life or to obtain employment.

[40] The husband equally did not accept that there were any security issues or threats against his wife despite the evidence of police involvement in threats made against the wife and the reports of unknown individuals at the property. Again, I find this position simply untenable.

[41] I am satisfied that the husband's conduct during the marriage, further amplified in the vicious murder of Mr Strickland are examples of conduct so outrageous that it would be inequitable to disregard them. This is an exceptional case.

### *Financial conduct*

[42] I am satisfied that the husband was fully involved in the transfer of the Burn Road property as a gift to his sister. The contemporaneous documentary evidence is overwhelming. Similarly, the documentary evidence made it clear that the husband was involved in the sale of many of the assets he alleged had been sold by the wife. He conducted these sales either through his solicitors or by the use of proxy third parties.

### *Litigation misconduct*

[43] This case has been ongoing for approximately a decade. In that time the husband has not cooperated with proceedings and he has sacked a number of legal teams leading to inevitable delay. The husband also sacked his legal team during the currency of this hearing. This was a common tactic employed by the husband over the years. He made frequent assertions throughout the evidence that he would provide documentary or independent oral evidence in support of his position. He did neither. I am satisfied that the husband has engaged in litigation misconduct in relation to these proceedings.

### *Conclusion*

[44] The husband has argued that the appropriate split of the assets should be on a 50/50 basis. The wife on appeal has argued that she should be awarded 100% of the assets because of the conduct of the husband. Such a course would be reserved for exceptional cases.

[45] The central issue is that of the conduct of the husband. It is acknowledged that for conduct to be taken into account in ancillary relief proceedings it must meet a high bar. I am satisfied in this case that the conduct of the husband has had a clear financial impact on the wife. It has had a detrimental and chronic impact on mental health and has undoubtedly contributed significantly to difficulties in her being in a



position to attempt to find work and then in fact to obtain work. That loss cannot be precisely quantified, but I am satisfied nevertheless that it exists. The husband has undoubtedly benefited substantially from the disposal of assets which have not been accounted for. I am satisfied that an appropriate division of the assets is to award 75% of the remaining assets to the wife and 25% to the husband.

[46] As a result, I order that the two properties, being the former matrimonial home and the property held at Crossgar, shall be placed on the market for sale and the net proceeds, along with the funds currently held relating to the earlier sale of property, shall be divided between the parties in the proportions directed.

[47] In light of the award that I have made, the money that is currently held by the solicitors (a sum of approximately £191,000) together with any further interest accruing to that money should be released to the wife immediately.

[48] I am satisfied that this case is one in which a clean break must be ordered.

### *Costs*

[49] I am further satisfied that this is a case where costs should be awarded against the husband. I am satisfied the husband has engaged in litigation misconduct. He had the benefit of being legally aided (although he sacked his legal team during the hearing) whereas his wife has carried the burden of the legal costs of protracted legal proceedings. Much of the delay and the expense has been caused by the husband. There are recurring themes as to his behaviour. One example is the adjournment of this matter which was listed for hearing on 13 and 14 December 2023. The husband had told his then legal team he had more than 10 potential witnesses who would have to be contacted. He made reference yet again to documentation in his possession which would support his case and also referred to the necessity for these witnesses to be called to give evidence. The court was also told, in a joint position paper, that the husband's case was that further matters needed to be attended to that were not presented in evidence before the Master. The matter adjourned. In the event neither the alleged documents nor a significant number of witnesses were involved in this appeal.

[50] I regard his appeal as entirely unmeritorious. It has, however, required the wife not just to conduct the appeal but to give oral evidence again on very traumatic matters. Master Bell also made it abundantly clear to the husband as a personal litigant in that case that if he were to appeal unsuccessfully against his decision it was likely he will be required to pay legal costs involved in defending the appeal. He was also warned that it will be open to this court to increase the amount which the master awarded to the wife. I am further satisfied that the manner in which the husband has conducted the litigation in this case has exacerbated the coercive control he exercised during the course of the marriage.

[51] I am satisfied that it is appropriate and just that the husband should make contribution to the legal costs of the wife in proceedings before the Master as determined by him in the sum of £50,000. I see no reason to interfere with the careful assessment of the master regarding the proceedings before him. The husband shall also bear the wife's legal costs on this appeal to be taxed in default of agreement. As the husband is in receipt of legal aid the order for costs is not to be enforced without further leave of the court. None of the assets due to the husband from the matrimonial estate shall be distributed to him until the costs are resolved.