

Horses for Courses ?

In a recent decision reported from the Court of Appeal, a District Judge's decision to make an allowance in the wife's maintenance for her love of horses was upheld on appeal.

As with most Court of Appeal cases the parties were relatively wealthy and had divided joint capital assets of £3,000,000 and pensions worth around £350,000 equally between them.

The issue for the Court was the amount of maintenance the wife was to receive on top.

She was found to have a modest earning capacity of £1,000 a month. This was a 12 year marriage and the District Judge felt that, given the husband's high income (averaging around £170,000 net pa as an Investment Banker) he could afford to pay her £50,000 pa, giving her a total net income of around £80,000 pa, once investment income and her modest earning capacity were taken into account.

The interesting point was that the Appeal Court rejected criticism that the District Judge should not have allowed the wife, as part of her property budget, to use up so much of it to meet the needs to accommodate herself and her horses (thereby reducing her investment income from what was left) and also a criticism that her reasonable requirements budget should not include the costs of the horses, which the husband considered, post-separation, were an extravagance, despite having encouraged the wife in her hobby during the marriage.

The marriage was childless and the District Judge described the wife as devoted to her horses. Even the husband conceded that outside of the house her major activity was her horses.

The Court of Appeal stressed that as with many cases it was a matter for the District Judge to exercise discretion and the Court of Appeal would always be slow to interfere with such an exercise. A warning note was sounded that if the husband either voluntarily or compulsorily retired from his present high earning role, then it would not be reasonable for him then to continue to support the horses in the same way.



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