

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved



IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
[2020] EWHC 3578 (Fam)

No. QB-2019-003632/FD20F0028

Royal Courts of Justice
Strand
Holborn
London WC2A 2LL

Monday, 2 November 2020

Before:

MR JUSTICE COHEN

(In Private)

B E T W E E N :

MOSES OGBERENEUME TAIGA

Claimant/Respondent

- and -

NNEKA MERCY OGBEDO

Defendant/Petitioner

MR O. WISE (instructed by K&S @ Law Solicitors) appeared on behalf of the
Claimant/Respondent.

MR N. ALLEN QC and MS C. TRACE (instructed by Ladders Solicitors LLP) appeared on behalf
of the Defendant/Petitioner.

J U D G M E N T

MR JUSTICE COHEN:

- 1 I have before me a series of applications arising out of what Mr Allen QC, who appears with Ms Trace on behalf of the lady who I will call the petitioner, describes as longstanding litigation between the parties. That must be a substantial economy of words as these parties have been engaged in furious litigation for what is now some 17 ½ years, namely since their 19 year old children were toddlers, that litigation taking place both in England and in Nigeria.
- 2 The name Moses Taiga is known to every family lawyer. There have been proceedings going on, as I say, throughout the last 17 years, principally managed by Charles J and more recently by me. The costs that these parties must have expended is quite enormous. I have been provided with a chronology prepared on behalf of the petitioner, and that is attached as an annex to be read into this judgment.
- 3 This round of proceedings arises in this way. The respondent father, now represented by Mr Wise, was successful in arguing in Nigeria, and on the back of that in England, that these parties had never had a valid marriage, because, and I hope I summarise accurately, by the time of what the Nigerian court of first instance found was a customary marriage, the respondent was still married to his first wife. The petitioner's appeal against the order in Nigeria is still outstanding.
- 4 As a result, that conclusion having been adopted by Charles J, the respondent seeks to recoup a little under £1 million which he says he wrongfully was ordered to pay to the petitioner by way of orders of spousal periodical payments and related orders for costs, those orders being made at the time that the Court of England and Wales had yet to come to the conclusion that these parties were not married, and he seeks additional sums by way of general damages in respect of freezing injunctions and disclosure orders that were made against him. The claim is therefore very substantial in size.
- 5 The judgment which the respondent relies upon to establish his claim was one made in 2013. It is said on behalf of the petitioner that these proceedings that he now brings are *res judicata* and/or subject to the rule in *Henderson v Henderson* and that, therefore, I should strike them out. The response comes back, "Well, these proceedings have now been converted" (I think "converted" is a fair word) "into proceedings for malicious prosecution. That was not a cause of action that could have been brought in civil proceedings until the Supreme Court so ruled in 2016, and thus, he says, the action is validly constituted and that will give rise to a very interesting and no doubt difficult decision to be determined as to when the cause of action for malicious prosecution arose. That is something that I am going to have to consider in about six weeks' time when the petitioner's application to strike out this claim is listed to be heard.
- 6 On 15 October 2013, Charles J at the conclusion of that round of the proceedings in broad terms ordered the petitioner to pay 80 per cent of the respondent's costs on a standard basis, to be assessed if not agreed. No assessment was sought. It might be thought surprising that some seven years later this issue has suddenly burst into life and it has come about in this way. On or about 17 September 2020 the respondent served a notice of commencement of assessment of bill of costs claiming an entitlement to a sum coincidentally also approaching £1 million, namely £842,568 plus fees.
- 7 On 30 September the petitioner applied to strike out or stay the detailed assessment until determination of the hearing, listed for today, and to strike out the malicious prosecution

action, listed for 11 December. That was put before me in writing by the office of the Family Division to ask how they should deal with it and whether I would deal with the assessment application on 2 November when I was due to hear the security and Hadkinson applications. I confirmed that the application would be considered today, 2 November, unless submissions were made to the contrary on behalf of the respondent.

- 8 Knowing full well that this was what was going to happen, the respondent instead of making submissions that it should not happen, simply entered a default costs certificate. Mr Allen says that this showed a lack of candour on behalf of the respondent and I certainly for my part do not look with any enthusiasm at the step that was taken by him.
- 9 Mr Wise says, well, that may be, but the petitioner had her own remedy, because what she should have done in the circumstances was follow the procedure, namely by setting out points of dispute which, according to the Practice Direction, should be provided within 21 days. The PD says that the time for service of points of dispute may be extended or shortened either by agreement or by court rules and an application may be made to the appropriate court office and that, says Mr Wise, is the step that should have been taken.
- 10 I agree that this is what the rules provide and certainly with the benefit of hindsight this is the course that should have been taken, but it is not surprising that the petitioner thought herself protected by the steps that she had taken and the assurance of the court that the matter would be dealt with today.
- 11 PD 47.11.1 provides that a court officer may set aside a default costs certificate at the request of the receiving party and at one stage it seemed to me that Mr Wise was submitting that I do not have the jurisdiction to set aside a default costs certificate as the Practice Direction goes on to say that a costs judge or a district judge will make any other (my emphasis on "other") order or give any directions under this rule. I do not agree that I do not have the jurisdiction.
- 12 It seems to me that in the circumstances that I have described and bearing in mind the very large sum that it involved and that, as I am told, there will be issues not just as to the quantum of the costs, but also as to whether there are issues of conduct which could properly be raised under CPR 44.11, it would be quite wrong for me to simply, as it were, lumber the petitioner with the requirement to pay the sum sought without an opportunity to argue her case.
- 13 I propose to set aside the default costs certificate and instead provide for the petitioner to serve points of dispute as the rules provide. That seems to me properly to hold the ring and do justice between the parties and the respondent cannot much complain about the delay that will cause, bearing in mind that it has taken him seven years to apply for costs to be assessed in the first place. I will extend the time for providing the points of dispute to six weeks from today. I shall further direct that no further steps are to be taken towards the assessment of costs until further order.
- 14 I have considered whether or not pursuant to PD 47.11.3 I should require the petitioner to pay costs on account, but the reality is, as the defendant knows, that will simply deprive her of the opportunity to make any form of submissions whatsoever, because it has not been suggested to me, either in the Children Act proceedings, which I dealt with at length in 2018, or today that she has the means to make any payment on account. So that is the order that I propose to make in respect of that.

- 15 The other two issues before me are those of security for costs and a *Hadkinson* order. I intend to deal with the *Hadkinson* order first. The jurisdiction to make *Hadkinson* orders is very well established. I will come back to the criteria in a moment, but the factual basis of this part of the application could not be clearer. The case came before Master Cook on 27 March 2020 when the Master ordered that the substantive application be referred to the Family Court and be listed before a High Court Judge and he ordered, the application having been resisted by the respondent, that he should pay costs summarily assessed in the sum of £8,771.40. That payment was to be made by 28 April 2020.
- 16 It was also provided by subsequent agreement between the parties that the respondent shall by 4 p.m. on 8 May serve upon the petitioner an amended particulars of claim. It was agreed between the parties that this was subject to a condition that he would by 4 p.m. on 25 September 2020 pay the sum of £6,000 as a contribution towards the petitioner's costs and would comply with the order for costs made by Master Cook on 14 April. Thus it was that he agreed to pay by 25 September 2020 the sum of £14,771.40. I initialled the consent order but had no greater input to it than that.
- 17 I have to say, I found it a deeply unattractive submission made on his behalf that, "Well, he has not paid that, but she owes him much more money than that and you should set the one off against the other". Apart from the point properly made by Mr Allen that at the moment if I set aside the certificate there is no fixed sum that is owed by her to him, the fact is that the agreement permitting the respondent to file the amended particulars of claim was specifically made subject to the agreement to pay the sums that I have mentioned and to suggest that he should be able to escape from an agreement that he voluntarily entered into is not one that finds any sympathy with me.
- 18 The way that it was put by the respondent in his statement was rather different and certainly superficially more attractive, namely he said that by reason of the pandemic, his age and his general financial circumstances he simply had not been able to pay the money. There are, however, grave problems that he faces with that. He gave no details of his means. Throughout the proceedings in the Children Act it was his case that he was a very wealthy man, worth more than £40 million, sometimes put as £45 million, and he need not descend to any specificity, because he was running what is colloquially known as the millionaire's defence. Further, his own solicitor filed a statement in March 2020 in reply to the application for security for costs saying that the respondent was a wealthy man and would have no difficulty in meeting the order for the much greater sum that was sought by way of security for costs. I am not prepared to accept or deal with him on any other basis.
- 19 Notwithstanding the impecuniosity that is claimed on behalf of the respondent, he has paid some £24,000 to his lawyers in respect of today's application plus no doubt significant costs in respect of his pleadings and amended pleadings and the hearing before Master Cook.
- 20 The criteria that I have to apply are those set out in the cases of *Assoun v Assoun* (No 1) [2017] 2 FLR 1137 and by Ryder J, as he then was, in *Mubarak v Mubarak* [2004] 2 FLR 932. I bear in mind that the court should be very slow to hamper a right of access to the court. I ask myself the following questions.: First, I ask if the respondent is still in contempt? Plainly, the answer is yes, he is. Secondly, is there an impediment to the cause of justice? In my view, there is. These proceedings are difficult and complicated. The petitioner has no means and every penny that she gets from the respondent is extremely important and she needs the money to have legal representation. Without it she would be on her own.

- 21 Thirdly, is there another effective means of securing compliance with a court order? In his solicitor's statement it is said that there are assets in this country, but no explanation is given and the only asset that I am aware of is the property which is the subject of the order made by me in the Children Act proceedings which is the children's home. He provides no information of any assets in this country which would permit enforcement to be taken against.
- 22 I have to consider whether to exercise my discretion to impose conditions, asking myself if the contempt is wilful -- the answer to that is yes -- and are there any other conditions that can be put in place?
- 23 In my judgment, none at all. The sum involved is to him minimal. Therefore, for this claim to continue he will have to pay the sum of £14,771.40 no later than 21 days from today, namely 23 November. I regard this course as proper and proportionate. If he does not do so the claim will not proceed.
- 24 The next issue is that of security for costs. In some ways this is the more difficult of the issues before me, because it is powerfully said on behalf of the respondent: Why should he pay security for costs when he has costs orders, albeit as a result of my decision not yet assessed or payable, in his favour which vastly exceed the amount of security for costs which is being sought, namely £150,000 as it was in the summons that was issued? And, says Mr Wise, even if the petitioner ultimately wins this case, there will still be a substantial balance due from her to him rather than the other way round.
- 25 I think it is important to go back to the principles set out in CPR 25 and I remind myself of the provision of r25.13:
- “Conditions to be satisfied
- (1) The court may make an order for security for costs under rule 25.12 if –
- (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order, and
- (b)
- (i) one or more of the conditions in paragraph (2) applies”.
- 26 Mr Allen rightly points out to me that two of the conditions are satisfied. At (2)(a) the claimant is resident out of the jurisdiction, namely in Nigeria, and is not resident in a Brussels Contracting State, a State bound by the Lugano Convention, a State bound by the 2005 Hague Convention or a Regulation State, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 and (e) that claimant has failed to give his address in the claim form, or gave an incorrect address in that form, namely the address that he gave was that of his solicitor rather than his address.
- 27 There are, as I say, many difficult points to be taken into account. On the one hand there is the substantial sum which the respondent/claimant will in due course be entitled to claim from the petitioner/defendant once an assessment has been concluded, but, on the other hand, there is the deplorable history of his conduct within the Children Act proceedings. Every single issue has been contested and there have been very substantial enforcement

difficulties which have involved the necessity of setting up security funds or guarantees which have been dipped into from time to time and have had to be reinstated.

- 28 The history set out in the chronology speaks for itself and I have absolutely no doubt that if security for costs is not provided the reality is that the petitioner/defendant will have no chance of recovering her costs if successful. There is nothing in this country that she knows of other than the property in which the children live and an attempt to enforce in Nigeria would be hugely difficult and take a very, very long time, even to ever reach a court hearing. If I need any evidence of that, five years after the Nigerian Court of Appeal decision, there are still ongoing proceedings which appear nowhere near towards reaching a hearing in the Supreme Court for which permission has been given.
- 29 So not only would she be unlikely to succeed in obtaining her costs, but she would also have no means of funding any form of her representation. She has no assets in this country and the providers of legal services funds, as is normally the case for recipients of awards under Schedule 1 of the Children Act, are not prepared to touch the case because the only asset is not in the name of the borrower. Her solicitors are only prepared to continue acting if they know that if their client is successful there is a fund in court to which they can turn.
- 30 I am satisfied that the conditions for the making of a security for costs order are met and that it would be just for such an order to be made and I remind myself that if the respondent/claimant is successful in his application, then the funds that I am going to order him to pay will be safely lodged with the court and will be repaid to him upon him having achieved that successful outcome.
- 31 I think that it is right to take this in stages. What I intend to do is to order the respondent to pay, again within 21 days, the sum of £90,000 and within two months thereafter the further sum of £60,000. I have arrived at these figures this way. The application sought the sum of £150,000 and I have been shown a spreadsheet which shows that the sum anticipated to be spent is now put at £210,000. I think Mr Wise is right to say at this stage that I should not allow more than was in the application.
- 32 In response to a question that I asked, I have been told by the petitioner's solicitor that she anticipates that the costs incurred by the end of the next hearing in December before me will stand at £105,000. In fact I have no doubt it will be rather more than that as a result of the order that I have made in respect of the provision of the points of dispute for the costs assessment. I have further been told that the £105,000 is inclusive of the sum of nearly £15,000 that I have ordered to be the subject of the *Hadkinson* application and, therefore, to avoid double counting I reduce the first tranche to £90,000. I have decided it would not be right for me to require the further sum to be payable until it is known what the outcome is of the application to be heard in December. For the avoidance of doubt, if the application made to strike out is successful I recognise I will need to revisit the further provision that I have made for the payment of the additional £60,000 and the order must be drafted in a way that reflects that.
- 33 So those are the orders that I make today.

L A T E R

- 34 I have already expressed my view in argument that the *Hadkinson* argument was one that plainly should have attracted what would have been called an indemnity costs order and that I would have made an order on the standard basis in respect of the other two aspects of the case. In general terms, I think the costs are proportionate and reasonable, but, nevertheless,

that is not the end of the matter. This is not meant to be an exercise in providing a figure without any form of consideration of what the issues were, how successful in this case the petitioner has been and the extent of that success.

- 35 What I have decided to do is to make an order for costs summarily assessed in the sum of £28,000. That is 85 per cent or thereabouts of the sum that is claimed. It is not significantly above the sum which the respondent/claimant has expended and insofar as it is higher, it is entirely justified by the fact that there is always in these cases, and certainly has been in this case, significantly greater work that has had to be done on behalf of the petitioner which will not have fallen on the respondent. It is entirely reasonable to have instructed Mr Allen and Ms Trace. Mr Allen has been in this case for a very long time and Ms Trace throughout the duration of this round of it. So the figure of £90,000 will accordingly be adjusted downward by £28,000, being the figure I summarily assessed.

L A T E R

- 36 The answer is, you will be unsurprised to hear, that I refuse permission to appeal and I refuse to grant a stay. You will have to ask the Court of Appeal for one.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

*Transcribed by Opus 2 International Limited
Official Court Reporters and Audio Transcribers
5 New Street Square, London, EC4A 3BF
Tel: 020 7831 5627 Fax: 020 7831 7737
civil@opus2.digital*

This transcript has been approved by the Judge

ANNEX

4 th August 1947	H born [in Nigeria] (73)
28 th February 1968	W born [in Nigeria] (52)
21 st December 1974	Statutory marriage in Nigeria between H and GT [<i>per</i> H]
22 nd December 1993	Marriage in Nigeria between H and W pursuant to native law and custom [<i>per</i> W]
January 2000	W moves to live in the UK
20 th June 2001	Emuobosa Georgette and Ufuomavefe born (19)
16 th March 2002	Marriage in Nigeria between H and W pursuant to native law and custom [<i>per</i> W]
19 th February 2003	Divorce Petition (W) [FD 03 D 02234] <ul style="list-style-type: none">• Parties married pursuant to native law and custom on 22.12.93
19 th February 2003	Form A (W)
4 th March 2003	[Nigeria] Divorce Petition (H) <ul style="list-style-type: none">• Customary law marriage on 16.03.02
27 th March 2003	Order Mr. Justice Johnson <ul style="list-style-type: none">• Freezing Order against H's assets• Order under the Banker's Book Evidence Act 1879
4 th April 2003	Mirror Orders made in Jersey to Freezing Order and Order under BBEA 1879
10 th [or 11 th] April 2003	Order Mrs. Justice Hogg <ul style="list-style-type: none">• Amendments to Freezing Order• W's MPS application to be listed as a matter of urgency
15 th April 2003	Order Miss Anna Pauffley QC (sitting as a DHCJ) <ul style="list-style-type: none">• H restrained from taking any further steps to progress his Nigerian petition provided that H shall be entitled to respond to and defend any application made by W within these proceedings.
6 th May 2003	Answer to Petition (H)

- 20th May 2003 Reply to Answer to Petition (W)
- 28th May 2003 **Order District Judge Black**
- MPS – from 28.04.03: £10,000 pm to W and £15,000 pm to W’s lawyers for legal costs
- 4th June 2003 **Order His Honour Judge Tyrer**
- Variation of the Freezing Order made on 27.03 03 (as varied on 10.04.03)
- 13th June 2003 **Order Mr. Richard Anelay QC (sitting as a DHCJ)** • Variation of the Freezing Order against H’s assets
- 16th July 2003 **Order Mr. Justice Hedley**
- 31st July 2003 **Order Mrs. Justice Hogg**
- Variation of the Freezing Order against H’s assets
- 30th September 2003 **Order Mr. Justice Wood**
- 30th October 2003 **Order Mr. Justice Hughes**
- Withers removed from the court record as acting for H
- 6th November 2003 **Order Mr. Justice Hughes**
- H’s application dated 28.10.03 to dismiss W’s divorce petition dismissed
 - First Appointment directions
- 1st [or 4th] December 2003 **Order Mr. Justice Singer**
- MPS - from 28.04.03: £14,000 pm to W and £25,000 pm to W’s lawyers for legal costs
 - Directions
- 10th December 2003 **Order Court of Appeal [Lord Justice Thorpe]**
- H’s application for permission to appeal the order of 06.11.03 dismissed
- 3rd February 2004 **Order Mr. Justice Singer**
- 5th March 2004 **Order Mr. Justice Singer**
- 6th April 2004 **Order Mr. Justice Bennett**

22nd April **Order Mr. Justice Wilson**
2004

13th May **Order Mr. Justice Kirkwood**
2004

14th June **Order Court of Appeal [Lord Justice Thorpe and Lord Justice Rix]**
2004

15th June **Order Mr. Justice Bennett**
2004

29th June
2004 Amended Divorce Petition (W) [FD 03 D 02234]

- Parties married pursuant to native law and custom on 22.12.93 in the alternative that by the same ceremony the parties purported to celebrate a marriage or underwent a ceremony of marriage by native law and custom.
- W added a claim that the parties were married by cohabitation and repute.
- In the alternative W sought a decree of nullity if H should prove that he entered into a statutory marriage in 1974 which was still subsisting in 1993.

29th June Divorce Petition (W) [FD 04 D 05733]
2004

- Parties married by native law and custom on 16.03.02

2nd July **Order Mr. Justice Munby**
2004

16th July **Order District Judge Bradley**
2004

23rd **Order Court of Appeal [Lord Justice Thorpe and Lord Justice Potter]**
September
2004

11th October **Order Mr. Justice Bennett**
2004

10th **Order Mr. Justice Singer**
November
2004

14th **Order Mr. Justice Charles**
December
2004

8th [or 10th] W issues application under CA 1989 Schedule 1 [FD 05 P 00258]
February
2005

9th March 2005 **Order Mr. Justice Charles**

- Hearings 15.11.04 – 19.11.04 and 14.12.04 – 16.12.04
- Proceedings in respect of the two petitions (19.02.03/29.06.04 and 29.06.04) stayed pursuant to DMPA 1973 Schedule 1 to allow the Nigerian courts to determine *inter alia* the personal status and/or the dissolution or annulment of any marriage or purported marriage between the parties.
- Discharge of MPS orders - £879,000 paid (£322,000 in general maintenance of £14,000 pm and £575,000 in legal costs of £25,000 per month)
- Continuation of freezing order made on 13.06.03

24th May 2005 **Order Mr. Justice Charles**

8 th May 2008	Application by W for permission to bring proceedings under the MFPA 1984
13 th May 2008	<p>Order Mr. Justice Charles [<i>ex parte</i>]</p> <ul style="list-style-type: none"> • Permission to W to bring proceedings under the MFPA 1984 • Makes limited order for MPS to cover the costs of a directions hearing - £30,812 paid
14 th May 2008	[Nigeria] H lodges appeal against High Court judgment
16 th May 2008	<p>Application Notice (H):</p> <ul style="list-style-type: none"> • dismissal of W's petition dated 19.02.03 (as amended on 29.06.04) • dismissal of W's petition dated 29.06.04 • set aside of leave under MFPA 1984 • W and her lawyers to make immediate refund to H of all of the monies which H had paid to them pursuant to MPS orders; and • costs to be paid by W on an indemnity basis. <p>H sought repayment of £927,812:</p> <ul style="list-style-type: none"> • £322,000 in general maintenance (paid at rate of £14,000 pm) • £575,000 in legal costs payments (paid at rate of £25,000 pm) • £30,812 re H's costs of the MFPA 1984 proceedings <p>H seeks to rely upon the fact that since W had not established to the civil standard of proof that the 1993 marriage had taken place, the court had to proceed as if the marriage had never taken place and on that basis the petition based on the 1993 marriage was based on a false assertion that it had.</p>
22 nd May 2008	<p>Application Notice (W):</p> <ul style="list-style-type: none"> • (i) directions to progress MFPA 1984 application; and (ii) MPS/interim PPs
3 rd June 2008	<p>Order Mr. Justice Charles</p> <ul style="list-style-type: none"> • <i>Ex parte</i> freezing order made in MFPA 1984 proceedings narrower in scope than previously - (to remain in force until the determination of W's financial awards)

11 th June 2008	Order Mr. Justice Charles <ul style="list-style-type: none"> • Freezing order in MFPA 1984 proceedings continued • MPS /interim PPs order made in MFPA 1984 proceedings.
11 th June 2008	Order Mr. Justice Charles <ul style="list-style-type: none"> • W's directions application and H's application of 16.05.08 adjourned generally until the conclusion of the Nigerian proceedings (with liberty to either party to restore and to apply to this Court for further directions).
1 st July 2008	[Nigeria] W lodges cross-appeal against High Court judgment
28 th October 2008	Order Mr. Justice Charles
8 th April 2009	Order Mr. Justice Charles
14 th October 2009	Order Mr. Justice Charles
23 rd March 2010	Order Deputy District Judge Willbourne
10 th June 2010	Order Mr. Justice Charles
31 st January 2011	Order Mr. Justice Charles
11 th April 2011	Order Mr. Justice Charles
19 th January 2012	[Nigeria] Judgment of Court of Appeal (Lagos) on parties' cross-appeals. Allows H's appeal and dismisses W's crossappeal: <ul style="list-style-type: none"> •Upholds HC decision that no marriage ceremony on 22.12.93 •Upholds HC decision that no marriage by repute and cohabitation • Sets aside HC decision that a customary marriage ceremony on 16.03.02 (as W had not pleaded that this ceremony was a marriage ceremony)
2 nd March 2012	Order Mr. Justice Charles <ul style="list-style-type: none"> • lists a number of applications, including H's application dated 16.05.08,, for a hearing on 19.11.12 - 21.11.12
12 th June 2012	Order Mr. Justice Charles

26 th June 2012	Amended Divorce Petition (W) [FD 04 D 05733] <ul style="list-style-type: none"> • On 16.03.02 W went through a ceremony of marriage to H and the said marriage was valid and effective in all respects save that H was incapable of entering into a valid marriage in that he was already married to GT; and • W did not know that H was incapable of entering into a valid customary marriage • W seeks a decree of nullity on the basis of the 16.03.02 marriage [and abandons her claim for a dissolution]
14 th September 2012	Order Mr. Justice Charles
19 th – 21 st November 2012	Hearing before Mr. Justice Charles <ul style="list-style-type: none"> • Neither party indicates prior to this hearing that (s)he might seek to appeal further in Nigeria and so the issues were listed and determined on the basis that the relevant proceedings in Nigeria had been finally determined.
14 th December 2012	[Nigeria] Notice of Appeal to Supreme Court (with Grounds of Appeal) (W)
20 th December 2012	Freezing Order. Undertaking by W: “If the court later finds that this order has caused loss to [H], and decides that [H] should be compensated for that loss, [W] will comply with any order the court may make, save that, no proceedings are to be taken in connection with compensation pursuant to this undertaking without prior permission of the court”.
31 st January 2013	Order Mr. Justice Charles
28 th February 2013	Order Mr. Justice Charles
10 th April 2013	Order Mr. Justice Charles
21 st May 2013	Order Mr. Justice Charles
9 th July 2013	Order Mr. Justice Charles
15 th October 2013	Order Mr. Justice Charles [FD 03 D 02234, FD 04 D 05733, and FD 05 P 00258] re. 19.11.12 - 21.11.12 hearing [M-T v T [2013] EWHC 2061 (Fam)] Recitals:

- D. A number of issues raised by the parties, including those that are the subject of this order, were adjourned pending determination of the relevant proceedings in Nigeria. Following the decision therein if the Nigerian Court of Appeal and prior to the hearing on 19.11.12-21.11.12 neither party indicated that he or she might seek to appeal further in Nigeria and so the issues that are the subject of this order were listed and dealt with by this court on the basis that the relevant proceedings in Nigeria had been finally determined.
- E. After the hearing on 19.11.12-21.11.12, but before judgment was handed down, the Court was made aware that W had filed a Notice of Appeal seeking permission to appeal out of time against the decision of the Nigerian Court of Appeal but W has not made any application that this order should not be made now.
- F. The court has declined to make a finding of fact on whether W knew of H's statutory marriage to GT.

Order:

- 1. Petition dated 19.02.03, amended petition dated 29.06.04, petition dated 29.06.04, and amended petition of 26.06.12 dismissed;
- 2. H's application for repayment of all monies paid under the MPS order of District Judge Black dated 28.05.03 (as amended and extended by the order of Mr. Justice Singer dated 01.12.03) in the divorce proceedings is dismissed.
- 3. H's application for repayment of all monies paid under the MPS order of Mr. Justice Charles dated 06.06.08 in the MFPA 1984 proceedings is dismissed.
- 8. W shall pay 80% of H's costs of and occasioned by the proceedings in respect of the petitions, save where costs orders have already been determined, to be assessed on a standard basis if not agreed.
- 9. W shall pay 80% of H's costs of and occasioned by the proceedings under the MFPA 1984, to be assessed on a standard basis if not agreed.
- [27] The issues now before the court now are ... *“(vi) [H's] application for repayment of the sums he has paid by way of maintenance pending suit in the 2003 petition and in the proceedings under the 1984 Act”*

- Analysis at 102 -115 of judgment

- 9. W shall pay 80% of H's costs of and occasioned by the proceedings under the MFPA 1984, to be assessed on a standard basis if not agreed.
 - [27] The issues now before the court now are ... "*vi* [H's] application for repayment of the sums he has paid by way of maintenance pending suit in the 2003 petition and in the proceedings under the 1984 Act"
 - Analysis at 102 -115 of judgment 115: "... in the absence of (i) an action to set aside the orders and for an order for repayment and (ii) the identification by [H] of a power to order repayment, I am not prepared to make such an order under this head of [H's] application".
- 15th November 2013 Notice of Appeal (W) against order of 15.10.13 (supported by Grounds of Appeal)
- December 2013 Skeleton Argument filed in support of Notice of Appeal
- 11th March 2014 **Order Recorder Green**
- 7th April 2014 **Order Her Honour Judge Cox**
- 13th May 2014 [Nigeria] Order Supreme Court of Nigeria:
- W's application for leave to appeal dated 14.12.12 struck-out.
- 15th May 2014 [Nigeria] Notice of Appeal to Supreme Court (W)
- 3rd June 2014 **Order Court of Appeal [Lord Justice McFarlane]**
- W's application for permission to appeal refused on paper
- 28th October 2014 **Order Court of Appeal [Lord Justice McFarlane]**
- W's application for permission to appeal against the substantive orders refused
 - W's application for permission to appeal against the costs orders granted with the ambit of the appeal limited to the absence of any reference in the judgment to FPR 2010 r. 28.3(f) which required the court to have regard *inter alia* to the financial effect of the parties on any costs order.
- 18th March 2015 Letter from Timothy Scott QC to Lord Justice McFarlane:
- stating that his reference during the oral hearing to r. 28.3(7)(f) was incorrect as r.28.3 was not engaged

- stating that his reference during the oral hearing to r. 28.3(7)(f) was incorrect as r.28.3 was not engaged
 - acknowledging that this may lead to permission to appeal being set aside.
- 28th April 2015 Permission to appeal withdrawn
- 29th April 2015 [Nigeria] Order Supreme Court of Nigeria:
- W's application for leave to appeal dated 15.05.14 struck-out [due to deficiencies in the prayer]
- 16th November 2015 [Nigeria] Notice of Appeal to Supreme Court (W):
- Order for extension of time to seek leave to appeal against judgment of the Court of Appeal, Lagos Division as delivered on 19.01.12.
 - Leave to appeal against judgment of 19.01.12.
 - Order for extension of time to appeal against the judgment of 19.01.12.
 - Leave to argue fresh issue on Appeal thus:
"Whether the trial court was right in holding that it is only a voidable marriage that can be annulled."
- 21st December 2016 **Order District Judge Johns**
- 22nd February 2017 [Nigeria] Order Supreme Court:
- Time extended for W to seek leave to appeal.
 - Leave to appeal granted.
 - W given 60 days to file Notice of Appeal.
 - Leave to argue fresh issue granted.
- 24th March 2017 [Nigeria] Request for Compilation of Record of Appeal (W)
- 4th April 2017 [Nigeria] Notice of Appeal to Supreme Court (W)
- 5th July 2017 **Order Mr. Justice Mostyn**
- 18th December 2017 **Order Mr. Justice Holman**
- 8th January 2018 Pre-action Letter of Claim from H's solicitors to W's solicitors seeking £927,812 plus interest
- 11th January 2018 **Order Mr. Justice Mostyn**
- 22nd January 2018 W's solicitors reply to pre-action Letter of Claim

20 th March 2018	<p>[Nigeria] Notice of Motion (H):</p> <ul style="list-style-type: none"> • setting aside Ruling made on 22.02.17. • Order listing the Notice of Motion made by W on 17.11.15 for hearing. • Order directing the H to file his counter Affidavit in response to the Notice of Motion made by W on 17.11.15. • Such Orders the Court may deem to make in the circumstances.
11 th – 13 th April 2018	Hearing before Mr. Justice Cohen [CA 1989 Schedule 1]
20 th April 2018	Order Mr. Justice Cohen [CA 1989 Schedule 1]
24 th May 2018	Order Mr. Justice Cohen [CA 1989 Schedule 1]
11 th September 2019	<p>Letter H's solicitors to W's solicitors re. the costs order made against W on 15.10.13:</p> <ul style="list-style-type: none"> • the costs paid by H to W in respect of MPS is £605,812 (only the amount up to the <i>forum conveniens</i> hearing in 2012) • 80% of this figure is £484,649 • H will accept £404,649 in full and final settlement of his costs.
30 th September 2019	<p>Letter W's solicitors to H's solicitors re. the costs order made against W on 15.10.13:</p> <ul style="list-style-type: none"> • W does not have capital of £404,649 • Detailed assessment must be commenced within 3 months (CPR 47.7)
14 th October 2019	<p>Claim Form/Particulars of Claim (H):</p> <ol style="list-style-type: none"> 1. Order setting aside the MPS order on the basis that it was procured by W's falsehood; 2. Damages in excess of £200,000 for refund of MPS paid to W by H on the basis of W's falsehood or monies had and received without consideration; 3. General damages for the freezing injunctions obtained without due cause or without being entitled to such orders; 4. General damages for breach of privacy arising from the effect of the disclosures obtained without entitlement. <p>Value: £927,000 + Court fee (£10,000) Particulars of Loss:</p> <ol style="list-style-type: none"> 1. Amount of MPS which W claimed and H paid to W through her lawyers using false assertions in the 2003 petition was £322,000 (general maintenance at £14,000 pm) and £575,000 (in respect of costs at £25,000 pm) under the back-dated order made by Singer J – total: £897,000; 2. Amount of MPS which W claimed and H paid to W through her lawyers using false assertions in the 1984 Act proceedings - £30,812.

24 th October 2019	Acknowledgment of Service (W)
4 th November 2019	Part 18 Request for Further Information <ul style="list-style-type: none"> • Response sought by 07.11.19
6 th November 2019	[Nigeria] Motion on Notice (W): <ul style="list-style-type: none"> • “9. [H] has ... embarked on a series of harassment of [W] with letters and most recently law suit claiming for the sum of £937,000 ... being the Cost of monies paid under the maintenance pending suit (an application which the Court has hitherto dismissed), damages for the Award as well as damaging for the freezing orders (which the Court had also hitherto discharged). • 10. [H’s] illegal claim have been based on the decision of the Court of Appeal Lagos Division which is the subject matter of the Appeal before this honourable Court, it is therefore of paramount importance that this matter be given expeditions hearing before [W] goes ahead to unduly execute costs on [W] in the United Kingdom whilst the Appeal is still pending before his honourable Court. • 12. This appeal is not to validate the customary marriage celebrated between [W] and [H] but rather, it is for this Apex Court to determine whether the customary marriage took place (same having been denied by [H] in the face of compelling evidence) and accordingly issue a decree of Nullity if found to have taken place.”
7 th November 2019	Statement (W) in support of application for transfer of the claim from the QBD to the FD.
11 th November 2019	Application Notice (W) – transfer to Family Division <ul style="list-style-type: none"> • Order pursuant to CPR 30.5(1) that the claim be transferred from the QBD to the FD
11 th November 2019	Application Notice (W) – Security for costs <ul style="list-style-type: none"> • Order for security for costs [£150,000] pursuant to CPR 25.12
11 th November 2019	Statement (W) in support of application for security for costs pursuant to CPR 25.12
11 th November 2019	Defence (W)
18 th November 2019	Letter W’s solicitors to H’s solicitors: <ul style="list-style-type: none"> • Invites H to withdraw claim filed in QBD • If claim is not withdrawn W will apply for (i) strike-out under CPR 3.4 and/or (ii) summary judgment under CPR 24.2 based on (a) <i>Henderson v Henderson</i>; and (b) limitation period.
25 th November 2019	Statement (H) in response to application for transfer of the claim from the QBD to the FD.

9 th December 2019	Application Notice (W) – strike out/summary judgment <ul style="list-style-type: none"> • H’s claim be struck out pursuant to CPR 3.4(2)(b) as an abuse of process and/or W be granted summary judgment pursuant to CPR Part 24
9 th December 2019	Statement (W) in support of applications for H’s claim be struck out pursuant to CPR 3.4(2)(b) as an abuse of process and/or W be granted summary judgment pursuant to CPR Part 24
2 nd January 2020	Application Notice (W) – Part 18 request <ul style="list-style-type: none"> • Order pursuant to CPR 18.1 that H shall file and service replies to W’s request for further information as set out in request dated 04.11.19
10 th February 2020	Notice of Hearing on 27.03.20 for hearing of W’s application for disclosure of information
12 th March 2020	Statement (H) in response to application for security for costs pursuant to CPR 25.12
12 th March 2020	Statement (H) in response to applications for H’s claim to be struck out pursuant to CPR 3.4(2)(b) as an abuse of process and/or W be granted summary judgment pursuant to CPR Part 24
27 th March 2020	Order Master Cook
14 th April 2020	Order Master Cook [costs – £8,771.40]
14 th April 2020	Letter from W’s solicitors to H’s solicitors: <ul style="list-style-type: none"> • refuting allegation made before Master Cook on 27.03.20 that there were no proceedings before the Supreme Court in Nigeria • [no response received]
28 th April 2020	Deadline for payment of costs order of £8,771.40
7 th May 2020	Draft Amended Particulars of Claim
10 th June 2020	Statement (H) in support of application for permission to amend Particulars of Claim
10 th June 2020	Application Notice (H) – Permission to Amend Particulars of Claim
28 th August 2020	Order Mr. Justice Cohen (by consent)
22 nd July 2020	Application to Clerk of the Rules for Listing on 02.11.20
22 nd July 2020	Application to Clerk of the Rules for Listing on 11.12.20
7 th September 2020	Hearing of H’s Application Notice [vacated]

14 th September 2020	Amended Defence
17 th September 2020	Notice of Commencement of Assessment of Bill of Costs (H): <ul style="list-style-type: none"> • Detailed assessment pursuant to the Order of Mr Justice Charles dated 15.10.13 - £842,568 (plus fee)
25 th September 2020	Revised agreed deadline for payment of costs orders of (i) £8,771.40; and (ii) £6,000 (being a contribution to W's costs already incurred and to be incurred in respect of the Amended Particulars of Claim and the Amended Defence).
30 th September 2020	Application Notice (W): <ul style="list-style-type: none"> • Strike out or stay detailed assessment until determination of the hearings listed on 2.11.20 and 11.12.20.
30 th September 2020	Statement (W) in support of application for strike-out of stay of detailed assessment until determination of the hearings listed on 2.11.20 and 11.12.20.
7 th October 2020	Confirmation from court that W's application will be considered on 02.11.20
22 nd October 2020	Statement (H) in response to application for strike-out of stay of detailed assessment
22 nd October 2020	Default costs certificate
25 th October 2020	Application Notice (W): <ul style="list-style-type: none"> • <i>Hadkinson</i> Order
26 th October 2020	H's Statement of Evidence in Opposition of Application for Stay
26 th October 2020	Statement (W) in support of application for <i>Hadkinson</i> order
27 th October 2020	W receives the default costs certificate dated 22 nd October 2020 [send to her rather than to her solicitors]
28 th October 2020	W's N260 [total £33,359 inclusive of VAT]
29 th October 2020	Statement (H) in response to W's application for a <i>Hadkinson</i> order
2 nd November 2020	Hearing of W's three applications [t/e two-hours]
11 th December 2020	Hearing of W's strike-out application [t/e one-day]