



Neutral Citation Number: [2021] EWHC 2894 (Fam)

Case No: FD21F00022

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
IN THE MATTER OF THE INHERITANCE (PROVISION FOR FAMILY AND
DEPENDANTS) ACT 1975

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/10/2021

Before:

THE HONOURABLE MR JUSTICE COBB

Between:

SUKHRAJ KAUR
- and -
JASMEET KAUR BOLINA
TALVIR KAUR BOLINA MATTU

Claimant

Defendants

Amy Berry (instructed by **Alpha Omega Solicitors**) for the Claimant
Alastair Panton (instructed by **Direct Access**) for the Defendants

Hearing date: 5 October 2021

Approved Judgment

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THE HONOURABLE MR JUSTICE COBB

The Honourable Mr Justice Cobb:

1. A preliminary issue has arisen within proceedings brought under the *Inheritance (Provision for Family and Dependents) Act 1975* (“the 1975 Act”). The Claimant, Mrs Kaur, seeks an order that the period prescribed by *section 4* of the 1975 Act for the making of an application for an order under *Section 2* (ibid.) (i.e., 6 months) in relation to her deceased husband’s estate be extended (by 5 months) until 19 November 2020, this being the date of the issue of her *Part 8* Claim. The Defendants, who are the two surviving adult children of the deceased, and are the joint executors and beneficiaries under the will, oppose the Claimant’s application.
2. The issue was argued at a short case management hearing. I received and read a number of witness statements and supporting documents. I received able oral and written submissions from Ms Amy Berry on behalf of the Claimant, and Mr Alastair Panton for the Defendants. Given the importance of the issue to the parties, and the limited time available at the conclusion of the hearing for me to give a reasoned decision, I reserved judgment.

Background

3. Mr Ranjit Bolina (“Mr Bolina” or “the deceased”) was born in 1952. He lived in a property in West London (which I shall refer to as “Edgar Road”¹); this property had been in Mr Bolina’s family since 1957. Throughout the period in question, Mr Bolina’s mother also lived at Edgar Road; she had a diagnosis of Alzheimer’s disease. It is said by the Claimant that for the period under review Mr Bolina suffered with an alcohol dependency; his cause of death strongly suggests that this is probably so (see §7 below).
4. In 2011, the Claimant moved into Edgar Road as a student tenant. Mr Bolina, a widower, and the Claimant formed a relationship, and in October 2012 they married; it was a second marriage for both. The Claimant was 26 years his junior. The Claimant avers that neither of the Defendants was invited to the wedding because of difficult relationships between them and Mr Bolina. It appears from all that I have read that, from a very early stage, Mr Bolina’s family disapproved of the marriage. As it happens, within about 15 months, the marriage ran into difficulties; the Claimant alleges that Mr Bolina became abusive towards her, but in contemporaneous correspondence and from the Defendants account in these proceedings it is suggested that the abuse was from the Claimant to Mr Bolina. On occasions it appears that the police were called to Edgar Road. It should be noted that in 2014, the deceased’s mother successfully obtained a non-molestation order against the Claimant together with an occupation order (limiting, for a period, the Claimant’s use of the Edgar Road property). The extensive litigation history under the *Family Law Act 1996* which was referred to in this hearing illustrates quite well the tensions in the household about which the parties have all written extensively and graphically in their witness statements.
5. In April 2014, Mr Bolina petitioned for divorce and at the same time, he prepared a will in which he bequeathed all his estate to the Defendants, making no provision for his wife. A letter of wishes prepared simultaneously with the will confirmed his intention to deprive the Claimant of any of his estate on death. In May 2014, the Claimant issued a homeowners rights notice in relation to her occupation of Edgar Road. Later that

¹ This is not the real name.

year, the Claimant and Mr Bolina reconciled, at least to some degree, and the petition was withdrawn or dismissed. The Claimant maintains that in the period up to May 2017, she cared for the deceased and the deceased's mother, and in that way made a meaningful contribution to the family; she also refers to having made significant payments in the same period for the treatment of the deceased's alcohol addiction and in payment of some of his debts.

6. In May 2017, Ms Bolina (the First Defendant) moved into Edgar Road upon the breakdown of her own marriage. In the autumn of the following year, 2018, Mr Bolina once again petitioned for divorce. In February 2019, Mr Bolina and the Claimant finally separated, and the Claimant left the matrimonial home. In the following month, the Claimant applied for and obtained a non-molestation order against Mr Bolina and Ms Bolina (the First Defendant). The Claimant has, for this hearing, produced a letter from her IAPT² Senior Counsellor dated October 2019; it contains the following:

“[The Claimant] reported that she has been experiencing anxiety and low mood ... she stated that she was forced out of her house and she is now living with a friend. She was abused physically and psychologically by her husband and the husband's daughter. Her life was also threatened by the husband's daughter. [The Complainant] informed the police ...”

A General Practitioner's letter prepared at about the same time is in broadly consistent terms.

7. On 30 September 2019, Mr Bolina died, aged 67; the cause of death was recorded as “severe alcohol related hepatic steatosis”. It is not entirely clear on the evidence precisely when the Claimant discovered the death of her husband. The Defendants point to correspondence in October 2019 which confirm the fact; the Claimant maintains that it was not until December 2019 at a court hearing convened to resolve outstanding applications under the *Family Law Act 1996*. At the time of Mr Bolina's death he and the Claimant were in fact still married but had been living apart for several months.
8. As I have earlier observed, there is a significant dispute on the written evidence about the quality of the marriage, and the levels of alleged abuse between the adults cohabiting at Edgar Road. What is, perhaps, revealing is that neither of the Defendants mention anywhere in their evidence the deceased's alcohol abuse, which it seems to me must have been a feature of his life (indeed it must have been obvious) given his recorded cause of death; this causes me to question the objectivity or reliability of their account.
9. In December 2019, probate was granted on the estate of the deceased. In May 2020, the Claimant issued a *caveat* against the estate (on the basis of her intimated claim for relief under *section 2* of the *1975 Act*). I am satisfied that, having applied for her *caveat*, on 19 May 2020 she received an electronic communication from the Probate Registry in these terms:

² Improving Access to Psychological Therapies (IAPT)

“We will keep your *caveat* on record, and if it matches an application for a grant, we will stop the application. Your *caveat* will remain in place for months unless it is challenged.”

At no time did the Claimant receive a formal ‘warning’ that the Defendants had applied for probate.

10. Later in May (27th May) the Claimant wrote to the Defendants explicitly indicating her intention to make a claim on the estate, and seeking alternative dispute resolution. The Defendants accept that they received this letter and say that they replied on 15 June 2020, informing her of the grant of probate. The Claimant denies that she received the Defendants’ response letter. Interestingly, in the 15 June letter, the Defendants claim that the deceased’s estate “has already been distributed”; this was not in fact true.
11. In mid-June 2020, the 6-month limit by which the Claimant should have made her application for relief under the *1975 Act* passed. On 10 July 2020, the Claimant’s newly instructed solicitors allegedly sent a letter to the Defendants in which the basis of the Claimant’s claim was rehearsed. The Defendants deny receiving this letter. On the day that her *caveat* expired (November 2020), the Claimant’s lawyer discovered that probate had in fact been granted back in December 2019, and the claim under the *1975 Act* was accordingly promptly made.
12. The estate of the deceased is £300,00-£350,000; it is said to comprise the net equity in Edgar Road, and a small fast-food business with leasehold residential property attached; the Claimant believes that there may also be property or assets in India, but this is disputed by the Defendants. It appears that in August 2020 the estate was distributed by the Defendants to themselves.
13. The Claimant works as a carer, and asserts that she is on a zero hours contract; the Defendants challenge the Claimant’s assertions about her earnings and the security of her employment.

The law

14. The *1975 Act* empowers the court to make orders from the estate of a deceased person to provide for a spouse, former spouse, child, or other dependant person of that deceased. The court may make an order under *section 2* of the Act on the ground that “the disposition of the deceased’s estate effected by his will or the law relating to intestacy, or the combination of his will and that law, is not such as to make reasonable financial provision for the applicant” (emphasis by underlining added). It is important to note that “reasonable financial provision” is defined in *section 2* as:

“... such financial provision as it would be reasonable in all the circumstances of the case for a husband or wife to receive, whether or not that provision is required for his or her maintenance.”
15. *Section 2* of the *1975 Act* sets out the range of financial awards which may be made by the court. *Section 3* (ibid.) importantly sets out the matters to which the court may have

regard when determining an application under the *1975 Act*. This is non-exhaustive and widely drawn; I set it out below:

“(1) Where an application is made for an order under *section 2* of this *Act*, the court shall, in determining whether the disposition of the deceased’s estate effected by his will or the law relating to intestacy, or the combination of his will and that law, is such as to make reasonable financial provision for the applicant and, if the court considers that reasonable financial provision has not been made, in determining whether and in what manner it shall exercise its powers under that section, have regard to the following matters, that is to say—

(a) the financial resources and financial needs which the applicant has or is likely to have in the foreseeable future;

(b) the financial resources and financial needs which any other applicant for an order under *section 2* of this *Act* has or is likely to have in the foreseeable future;

(c) the financial resources and financial needs which any beneficiary of the estate of the deceased has or is likely to have in the foreseeable future;

(d) any obligations and responsibilities which the deceased had towards any applicant for an order under the said *section 2* or towards any beneficiary of the estate of the deceased;

(e) the size and nature of the net estate of the deceased;

(f) any physical or mental disability of any applicant for an order under the said *section 2* or any beneficiary of the estate of the deceased;

(g) any other matter, including the conduct of the applicant or any other person, which in the circumstances of the case the court may consider relevant.”

16. *Section 3(2)* of the *1975 Act* further provides that the court will have regard to the age of the Claimant and the duration of the marriage, and further:

“In the case of an application by the wife or husband of the deceased, the court shall also, unless at the date of death a Judicial Separation Order³ was in force and the separation was continuing, have regard to the provision which the

³ This will be a ‘Judicial Separation Order’ following amendments brought about by the DDSA 2020

applicant might reasonably have expected to receive if on the day on which the deceased died the marriage, instead of being terminated by death, had been terminated by a decree of divorce; but nothing requires the court to treat such provision as setting an upper or lower limit on the provision which may be made by an order under *section 2*.” (Emphasis by underlining added).

17. This application brings particular focus to *section 4* of the *1975 Act* which provides as follows:

“An application for an order under *section 2* of this Act shall not, except with the permission of the court, be made after the end of the period of six months from the date on which representation with respect to the estate of the deceased is first taken out (but nothing prevents the making of an application before such representation is first taken out).” (Emphasis by underlining added).

18. The circumstances in which a court may exercise discretion to permit an application under the *1975 Act* to proceed after the expiry of six months have been considered in several cases. Notable among them are *Re Salmon, Coard v National Westminster Bank Ltd* [1981] Ch 167, [1980] 3 All ER 532; *Re Dennis, Dennis v Lloyds Bank Ltd* [1981] 2 All ER 140; *Berger v Berger* [2013] EWCA Civ 1305; *Sergeant v Sergeant* [2018] EWHC 8 (Ch), [2018] WTLR 1451 and most recently by the Court of Appeal in *Cowan v Foreman* [2019] EWCA Civ 1336 from which the following propositions can be extracted⁴:

- i) The purpose of *section 4* is not to protect the court from stale claims but to avoid the unnecessary delay in the administration of estates which would be caused by the tardy bringing of proceedings and the complications which might arise if distributions from the estate were made before the proceedings were brought;
- ii) That, therefore, if the circumstances warranted it, the power in *section 4* should be exercised to further the overriding objective of bringing stale claims before the court where it would be just to do so;
- iii) The overriding objective and ancillary provisions of the *CPR 1998* are all concerned with managing a claim proportionately and fairly once it has been commenced, whereas *section 4* is concerned with whether, given all the circumstances of the case and the delay, it is appropriate to allow a claim to be issued more than six months after a grant of probate/letters of administration;
- iv) That there was no disciplinary element to *section 4* and, unlike the provisions of the CPR, the six-month time limit in *section 4* was not to be enforced for its own sake. The *section 4* time limit was expressly made subject to the court’s

⁴ In her written submissions, Ms Berry provided a synopsis of *Cowan*; Mr Panton also relied on *Cowan* did and not disagree with the summary. I have adapted/expanded Ms Berry’s helpful summary to some degree for the purposes of this judgment.

permission to bring an application after the limit passed; it is designed to bring a measure of certainty for personal representatives and beneficiaries alike.

- v) That, when determining whether to permit a claim to be brought outside the six-month period, the applicant had to present “a substantial case”; the court had to consider all matters “in the round”, have regard to the relevant circumstances of the case in question, and consider seven relevant factors, namely
 - a) that the courts discretion was unfettered but was to be exercised judicially in accordance with what was right and proper,
 - b) that the onus was on the claimant to show sufficient grounds for the granting of permission to apply out of time,
 - c) whether the claimant had acted promptly and the circumstances in which she applied for an extension of time after the expiry of the time limit,
 - d) whether negotiations had been begun within the time limit,
 - e) whether the estate had been distributed before the claim was notified to the defendants,
 - f) whether dismissal of the claim would leave the claimant without recourse to other remedies and
 - g) whether the claimant had an arguable case; “The court will not entertain a claim with no merit which is commenced outside the six-month time limit, merely because the delays can be explained and no one is prejudiced. The corollary is not necessarily true. If the claim would pass the summary judgment test, it does not mean that the court will exercise the *section 4* power to extend time. It is dependent upon an evaluation of all of the relevant factors in the circumstances” (§52 Asplin LJ).
- vi) that if the claimant had a strong claim for reasonable financial provision, it might be appropriate, taking into account all of the other relevant factors, to permit the claim to be brought out of time despite the lack of a good reason for the delay or some part of it (“the power to extend time may be exercised even if there is no good reason for delay” (§68 Asplin LJ).

The Claimant’s case

19. The Claimant maintains that Mr Bolina had promised to leave her the Edgar Road property on his death; she says that this promise was made “regularly” and sometimes in front of the Defendants. She emphasises that this was not a short marriage; the parties had been married for seven years at the date of Mr Bolina’s death, augmented by the six months of cohabitation prior to their marriage. Ms Berry argues that where, as here, *no* provision has been made for a spouse whatsoever, this is *never* likely to amount to “reasonable financial provision”. Ms Berry points to several cases in which awards have been made to spouses in different circumstances; I pause to observe at this point that the value of these comparators is marginal given that each case has to be taken very much on its own facts. While recognising that Edgar Road is a pre-acquired

/ non-matrimonial asset, the Claimant argues that it would nonetheless be regarded as a material asset had the parties divorced and their finances been resolved in financial remedy proceedings.

20. The Claimant argues that during the marriage Mr Bolina had provided accommodation for her; he had repaired and maintained that accommodation, and paid for food, utilities, and various bills; for a period of time, the Claimant had a dependency on him. After his death, he has, by his will made no provision; the Claimant contends that this is wholly *unreasonable*.
21. Ms Berry argues that in determining whether there is a real prospect of success of her client's claim, I must have regard to the fact that the Claimant has no autonomy, no security, and no direct interest in a home. She refers to the fact that Mr Bolina's will was drawn up at a low point in their marriage (April 2014), and does not of itself reflect the fact that the parties then reconciled and lived together for several years afterwards. It follows, she says, that on an objective basis the only judgment which the court can make is that the deceased, by excluding the Claimant from his will, failed to make reasonable financial for her.
22. The Claimant complains that the Defendants failed to notify her of the deteriorating health of Mr Bolina; nor did they tell her in a timely way that he had died or that they had applied for a grant of probate. In this way, she says, the Defendants can now hardly be heard to complain that she did not make her claim in a timely way.
23. On this issue of delay, the Claimant further suggests that the Probate Registry failed to advise her that probate had in fact been granted when she applied for her *caveat* on 19 May 2020 (which was, itself, within the 6-month period). She says that she had no knowledge of the grant until a standing search was carried out by her solicitors on the date of expiry of the *caveat*; the *Part 8* claim was issued on the same day. The Claimant avers that during the period in question she was suffering from depression and was unable to deal with her personal affairs.
24. Ms Berry finally argues that 5 months is not a lengthy delay; time could be extended by the court even if there was no good reason for it. But here, says Ms Berry, there is good reason.

The Defendants' case

25. The Defendants maintain that the Claimant has not been frank or transparent with the court (or the Defendants) in relation to her personal financial circumstances, such that it is impossible to state whether she has an "arguable" case as is required under the *Cowan* test (see above). Mr Panton makes the further point that the ownership of the Edgar Road property so significantly pre-dates the marriage of the Claimant and the deceased that this asset would *not* be taken into consideration in any hypothetical divorce as is envisaged by *section 3 (2)* of the *1975 Act*.
26. Mr Panton argues that Mr Bolina's intentions were clear, and are revealed by the preparation of his will and separate letters in 2014. The marriage had been at best turbulent, and the Claimant had finally left Edgar Road in 2019, not returning thereto (save to collect her possessions) prior to her husband's death in September 2019. The Claimant says that she left "due to domestic violence", but he points to the fact that this

is not entirely confirmed by contemporaneous correspondence. He asserts that this is a “fossil marriage” (per Williams, Mortimer, and Sunnocks on Probate at 54 – 14/17), that is to say that the marriage between the Claimant and the deceased was effectively over long before his death, and this ought to be taken into account in considering the *section 3* criteria.

27. He argues that the Claimant knew or must have known that she had not been included in her husband’s will by (at the latest) April 2019; she knew of the death of the deceased in October 2019 (contrary to her assertions). The evidence about when she knew of the grant of probate is unsatisfactory, and (materially, says Mr Panton), the Claimant is not prepared to waive privilege in relation to communications / advice she received from her lawyer then instructed. Mr Panton observes that as it is perfectly clear that the Claimant knew by 21 October 2019 both that she was not in the deceased’s will and also that the deceased was dead, there was nothing stopping her bringing a claim then. Instead, she waited another 13 months. He points to the fact that there were no negotiations within the permitted six-month time period despite the Defendants having notified ‘the lawyer’ acting for the Claimant that probate had been granted.

Discussion

28. Given the reasonably summary nature of this hearing (without oral evidence) I am not in a position to make any determinations of fact, but I have outlined the broadly uncontroversial key features of the history above. In reaching my conclusion, I have applied the law which I have set out in §14-18 above.
29. The most challenging aspect of this case, in determining the application under *section 4*, is whether the Claimant has an arguable case on the substantive issue (see §18(v)(g) above). This requires me to survey the factors set out in *section 3(1)* (see §15 above), and to make an evaluation based principally on the seven statutory headings which are listed there. On this aspect:
- i) I have proceeded on the basis of the relatively little (and controversial) information about the Claimant’s financial resources and financial needs, her income from employment historically and currently, which is material to an assessment of ‘reasonable financial provision’;
 - ii) I have received a bare outline of the Defendants’ financial circumstances;
 - iii) I proceed on the basis that during the marriage, and for as long as the Claimant was living at Edgar Road, the Claimant was at least in part dependant upon the deceased;
 - iv) I am working on the basis that the net estate of the deceased is said to be no more than about c.£300,000 - £350,000 of which the bulk is represented by what may be described as ‘non-matrimonial’ assets, namely the equity in Edgar Road;
 - v) That there is a significant dispute, incapable of resolution at this hearing, as to the conduct of the Claimant and First Defendant towards each other during the deceased’s life, and to some extent after his death.

30. This is not the place for an extensive review of matrimonial law, and specifically the treatment of non-matrimonial or pre-acquired property in financial remedy proceedings; indeed, counsel have not addressed me at any great length in this regard. However, there is one stark conflict on the submissions which does require to be addressed: Mr Panton has submitted that the Edgar Road property would simply not have been taken into account had the parties divorced; Ms Berry profoundly disagrees.
31. Reference to the seminal decisions of the House of Lords in *White v White* [2001] 1 AC 596, and *Miller & McFarlane* [2006] 1 FLR 1186, to the Court of Appeal's judgment in *Charman v Charman (No 4)* [2007] EWCA Civ 503, [2007] 1 FLR 1246, at paras 65 and 66, and to the Privy Council decision in *Scatcliffe v Scatcliffe* [2016] UKPC 36 at §25 assist in resolving the divergent submissions. I have also found it instructive to re-read the decision of Mostyn J in *N v F* [2011] EWHC 586 (Fam) to which Mr Panton specifically made reference. Without rehearsing the many points which emerge from those authorities, I proceed in this case on the basis with the following propositions firmly in mind, namely that:
- i) “The nature and value of the property, and the time when and circumstances in which the property was acquired, are among the relevant matters to be considered. However, in the ordinary course, this factor can be expected to carry little weight, if any, in a case where the claimant's financial needs cannot be met without recourse to this property” (Lord Nicholls in *White* at §43);
 - ii) “[T]he [sharing] principle applies to all the parties' property but, to the extent that their property is non-matrimonial, there is likely to be better reason for departure from equality” (Sir Mark Potter P, in *Charman* at §66);
 - iii) “[T]he proper approach is to apply the sharing principle to the matrimonial property and then to ask whether, in the light of all the matters specified in *section 26(1)* and of its concluding words, the result of so doing represents an appropriate overall disposal. In particular it should ask whether the principles of need and/or of compensation, best explained in the speech of Lady Hale in the *Miller* case at paras 137 to 144, require additional adjustment in the form of transfer to one party of further property, even of non-matrimonial property, held by the other” (Lord Wilson in *Scatcliffe* at §25(x));
 - iv) “... [pre-acquired property] represents a contribution made by one party unmatched by an equivalent contribution by the other. But the longer the marriage goes on the easier it is to say that by virtue of the mingling of that property with the product of the parties' marital endeavours the supplier of that property has, in effect, agreed to share it with his spouse” (Mostyn J in *N v F* at §9);
 - v) Treatment of pre-marital property is “highly fact specific and very discretionary” (Mostyn J in *N v F* §7).
- (Emphasis in each case by underlining added)
32. If this had been a short marriage, it may well have been argued (and it may well still be argued) that Claimant should not be entitled to any share of Mr Bolina's non-matrimonial (pre-acquired) property; but in my view, this was not a particularly short

marriage, even if it was an unstable one. I therefore reject Mr Panton's submission that the court would have *no* regard to the property at Edgar Road at all. That said, as Lord Nicholls observed (see §31(i) above), the nature and value of the property, and the time when and circumstances in which the property was acquired, are among the relevant matters to be considered. In this case, the fact that the property was acquired by the deceased's family more than 50 years before the Claimant joined the household is likely to be a highly significant factor. Even though the Claimant has a case for some financial relief, she should, in my judgement, significantly re-frame her expectations; she considers that she should receive the Edgar Road house outright, which, on the evidence which I have seen, is an over-ambitious objective.

33. Turning now to the other factors set out in *Cowan*, and taking the point at §18(v)(c), I can confirm that although this claim was brought approximately 5 months outside the statutory limit:

- i) The claim was signalled in correspondence with the Defendants in May 2020; the Defendants accept that they received this correspondence and were therefore on notice of the claim within the relevant period;
- ii) The claim was made reasonably promptly when the Claimant discovered definitively that probate had been granted; although I consider the Claimant could relatively easily have discovered the relevant facts to enable her to make a claim within the 6-month period of the application for the grant of probate, I am not satisfied that she had truly appreciated that fact or had received or registered the content of the October 2019 correspondence. I am persuaded on the evidence that she was probably depressed at the time, lacked access to her own documents (still at Edgar Road) and lacked sound advice;
- iii) I do not regard it as a 'stale' claim.

I should add that I am satisfied that had the Claimant been advised when she applied to register her *caveat* that probate had already been granted, she would have realised that she did not need (nor would she have applied for) the *caveat*, and would in all likelihood have issued proceedings instead.

34. I note of course that the claim was made after the distribution of the estate (see §18(v)(e)). However, the distribution is not complex (it is to the two Defendants); the distribution was in any event made after the Defendants knew that the Claimant was indicating her intention of making a claim.

35. I am unclear whether, if I were to refuse her application, the Claimant would have any recourse against the lawyer who purported to advise her in 2020 (see §18(v)(f)), but it seems unlikely. Indeed, there is some uncertainty as to whether that person who held herself out as a barrister was in fact qualified so to act.

36. I am satisfied that negotiations had not begun within the six-month period (see §18(v)(d)), and only the most half-hearted of attempts had been made by the Claimant to suggest some kind of (non-court) dispute resolution.

37. I remind myself that the onus is on the Claimant to show sufficient grounds for the grant of permission to apply out of time. I have given careful thought to whether the

Claimant has been able to make out a “substantial case” (see §18(v) above). Having regard to all the matters set out above in the round, and on a fine balance, I find that she has done so. After a seven-year marriage, with assets of this nature and given her own limited savings, the Claimant is likely to have had a claim for a modest award of post-divorce financial relief. That the deceased made no provision for her whatsoever leads me to agree with Ms Berry that it is indeed arguable that he made no “reasonable financial provision” for her.

38. I have cross-checked this outcome with what I consider to be “right and proper” as required (see §18(v)(a) above) and, even though I have very considerable misgivings about the commercial/economic sense of *either* party litigating the issues arising here at length (or at all) given the limited size of the estate and its nature, I am satisfied that I should give permission for the claim to proceed.
39. I shall therefore make an order that the period prescribed by *section 4* of the *1975 Act* for the making of an application for an order under *Section 2* (*ibid.*) (i.e., 6 months) in relation to Mr Bolina’s estate *be extended* (by 5 months) until 19 November 2020.
40. I shall give directions to advance the matter to trial. I will invite counsel to agree these directions if possible, but they should include:
 - i) Transfer to the County Court;
 - ii) Provision for the parties to co-operate in relation to the obtaining of full disclosure into these proceedings of the papers (statements and reports) filed within proceedings under the *Family Law Act 1996* involving this family in the period of the Claimant’s marriage to the deceased;
 - iii) Further or other witness evidence relevant to the *section 3* criteria;
 - iv) Medical evidence as to the deceased’s alcoholism and the deceased’s mother’s Alzheimer’s and the associated level of care necessary (prior to May 2017 when the First Defendant moved into Edgar Road);
 - v) List for a FDR hearing;
 - vi) List for trial with a time estimate of no more than 3 days.
41. That is my judgment.