



[2017] UKFTT 0469 (PC)

REF/2015/0583

**PROPERTY CHAMBER LAND REGISTRATION
FIRST-TIER TRIBUNAL
IN THE MATTER OF A REFERENCE
UNDER THE LAND REGISTRATION ACT 2002**

BETWEEN

MALIKA BOUCHIBA

APPLICANT

and

SHANE TURNER

RESPONDENT

Property Address: 24 Cheyne Avenue, Twickenham, Middlesex TW2 6AN

Title Number: MX27227

Before: Judge Owen Rhys

Sitting at: 10 Alfred Place, London WC1E 7LR

On: 27th and 28th April 2017

Applicant representation: Ms Justina Stewart of Counsel instructed by Messrs
Hughmans Solicitors
Respondent representation: Mr J Giret QC of Counsel (Direct Access)

DECISION

1. Since 9th October 2009, the Respondent has been the sole proprietor of the property known as 24 Cheyne Avenue, Twickenham, Middlesex TW2 6AN registered under title number MX27227 (“the Property”). It is common ground that the Applicant and the Respondent lived together at the Property with their child, Alexander, between its purchase in October 2009, and their separation in early 2015. By a form RX1 dated 27th May 2015, the Applicant applied to the Land Registry for the entry of a restriction in Form A against the title. The basis

of the application is stated to be as follows: “*The purchase of the property was intended to be in both parties names. However, due to the poor credit rating of the applicant the property was registered in the name of the registered proprietor only. Since the time of the purchase the applicant has made all the mortgage payments between purchase and January 2015. The applicant is, therefore, entitled to a restriction to prevent the property from being sold without the payment of the equity due to her.*” The Respondent objected to the application by letter dated 9th June 2015. He denied that there was any intention that she should have an interest in the Property. He stated that he paid for the deposit on the Property purchase and the purchase expenses, as well as major renovations and improvements. He claims that the Applicant lived with him as “*my guest*” and that he paid for the majority of the expenses and living costs. “*Any payments made by her were reimbursed in cash.*” The dispute could not be resolved, and on 27th August 2015 the Land Registry referred it to this Tribunal.

2. The procedural history of this reference is somewhat complex. The Applicant filed her Statement of Case on 9th October 2015. This alleged both a common intention constructive trust, and also the existence of a proprietary estoppel essentially arising out of the same facts. The Respondent’s Statement of Case was due within 28 days. Due to shortcomings in the form of the Applicant’s Statements of Case, it was re-served on 19th November 2015. The Respondent was directed to serve his response by 17th December 2015. He asked for further time, and on 11th January 2016 he was ordered to file and serve the Statement of Case no later than 25th January 2016, in default of which the Tribunal might direct the Land Registry to give effect to the Applicant’s application. He did not comply, and by Order dated 11th February 2016 the Chief Land Registrar was directed to enter the restriction. The Respondent then applied to set that order aside. In the event, the order was set aside and the Respondent filed his Statement of Case on 22nd April 2016. By this time the restriction had been entered on the title, so it was necessary for a further order to be made directing the removal of the restriction. That was done, thus restoring the *status quo*. The Respondent then filed an amended version of the Statement of Case on 6th December 2016.

3. After further delays, the matter eventually came on for hearing before me on 27th and 28th April 2017. The Applicant was represented by Ms Justina Stewart of Counsel, and the Respondent by Mr Joseph Giret QC. At the outset of the hearing Mr Giret asked for permission to rely on a witness statement made by the Respondent as recently as 20th April 2017. Directions for witness statements had been given on 20th October 2016, and required exchange by 10th November 2016. The hearing notice had been sent out on 1st March 2017. Mr Giret, on instructions, submitted that the Respondent had been unable to concentrate on the witness statement due to stress and ill-health and asked the Tribunal to excuse his default on that basis. The Applicant opposed the application, on the ground that the statement contained a great deal of material which would require a response, necessitating an adjournment. Critically, the statement included a denial that the parties had in fact cohabited prior to the purchase of the Property, a denial not previously made. I read the statement. Among other things, it contains a number of highly inflammatory and potentially vexatious allegations concerning the Applicant's conduct and behaviour, most of which are quite irrelevant to the issues before me. In all the circumstances, I declined Mr Giret's application. I noted that the Respondent had been able to produce a revised Statement of Case in December 2016 (after the due date for the exchange of witness statements) which is verified by a statement of truth and can stand as his evidence. In view of the history of delay and default, and the nature of the statement itself, I considered that the prejudice to the Applicant outweighed any prejudice to the Respondent in refusing the admission of this evidence. In the event, I heard live evidence from both Applicant and Respondent, as well as from Ms Gemma Charles, the Applicant's daughter. I also read two further witness statements, one from Alexander Turner, for the Applicant, and one by Mr Matthew Gilbert made on behalf of the Respondent. These witnesses did not attend for cross-examination, and I do not place much weight on their evidence.

4. The issues, as set out in the Statements of Case, are as follows.

Constructive Trust

- a. Can the Applicant prove the existence of a common intention to share the beneficial ownership of the Property either
 - i. by express agreement or arrangement or

- ii. by inference from the whole course of conduct of the parties in relation to the Property?
- b. If yes, did the Applicant act to her detriment on the basis of the parties' common intention that both parties would have such a share?
- c. If yes, what is the extent of the parties' respective beneficial interests? This is to be decided by reference to the parties' actual or inferred intentions.

Proprietary Estoppel

- d. Did the Respondent make an assurance of sufficient clarity to the Applicant?
 - e. If yes, did she reasonably rely on that assurance?
 - f. If yes, has she suffered detriment as a result of that reliance?
 - g. If yes, would it be unconscionable to allow the Respondent to resile from that assurance?
 - h. If yes, is the equity satisfied by a finding regarding equitable ownership as sought?
5. The Applicant supports her case on the fact with reference to some well-known authorities, which are set out at paragraphs 13-20 of Ms Stewart's Skeleton Argument. In relation to the constructive trust issue, the cases are Lloyds Bank v Rosset [1991] 1 AC 107 (at 132E-133B), Oxley v Hiscock [2005] Fam 211, Stack v Dowden [2007] UKHL 17, Jones v Kernott [2011] Thompson v Hurst [2012], and Curran v Collins [2015] EWCA Civ 404. In relation to proprietary estoppel, Ms Stewart relies on various passages from Darlington's Cohabitation and Trusts of Land (8th ed.) at 8-006, 8-017, 8-018 and 8-023. Due to the late instruction, Mr Giret QC had not been able to provide a Skeleton Argument for the Respondent, but helpfully he was able to indicate that he dissented neither from Ms Stewart's list of issues, nor from the statement of the relevant law as set out in her Skeleton Argument. As is common with cases of this nature, the legal tests are reasonably clear, and the real dispute arises on the facts.
6. The Applicant's case, in outline, is as follows. The parties began a relationship in 1986. At that time she was living at 315 Cranford Lane, Heston, a rented property, with her two children from a previous relationship. At this time the Respondent was staying at a friend's house, having broken up with his previous

girlfriend. He soon moved in to live with the Applicant and her children, as a family unit, with him taking on the role of stepfather. After their son Alexander was born, in December 1993, the Cranford Lane property became too small, and in 1995 they moved into different accommodation. This was 28 Waterloo Close, a Housing Association property leased to the Applicant, the tenancy of which she retains to this day. Between 2008 and 2009 the Respondent had a post with Hounslow as a counsellor and play therapist, and between 2010 and 2012 he worked for London Borough of Richmond as leader of a fathers' group. He was treated as a self-employed contract worker, and received lump sum payments. Prior to this time he was either in receipt of benefits, or in sporadic casual work, consisting of occasional labouring jobs and, on one occasion, a short stint with Boots the Chemist. By contrast, the Applicant was always in paid employment. Because of this, she had always taken on the burden of financial support of the family without help from the Respondent other than in very limited ways. She always paid the rent and other outgoings on their home, and had no help from the Respondent. As a result, she was often forced to borrow money to make ends meet, and on occasions got into debt.

7. In 2009 the parties discussed the purchase of a property together, as an investment and family home. This arose because for the first time since they began to cohabit in 1986 the Respondent was able to make some financial contribution due to his work with Hounslow. The intention was to take out a joint mortgage and take the property in joint names. They went to see a mortgage adviser at the Halifax, who took their details and carried out a credit check. He advised that the Applicant's poor credit record meant that she would not be able to borrow, so there could not be a joint mortgage and therefore the intended property would have to be in the sole name of the Respondent. When the Applicant expressed concern about this, the Respondent stated that she need not worry, that he would not "screw" her, and that she would be one of the legal owners of the Property in due course, or an owner of the property they planned on buying for their retirement together. The Property was purchased in 2009, and registered in the Respondent's sole name. The cost was £250,000, of which the Respondent paid the deposit and purchase costs totalling £41,167. The balance (£212,500) was borrowed by way of a repayment mortgage. The parties together

with their son Alexander moved in as a family. Gemma, the Applicant's daughter who had been living at Waterloo Close with them, did not get on with the Respondent and he refused to allow her to live with them at the Property. She continued to live at Waterloo Close. Consistent with their discussion about the eventual ownership of the Property, the Applicant began to pay all the outgoings on the Property, including the mortgage repayments, utility bills and Council Tax. She also paid all the housekeeping expenses, as she had always done. Eventually, the parties separated in late 2014, and the Applicant and Alexander were locked out of the Property. The Respondent continues to live there and denies that the Applicant is entitled to any share of it.

8. As I have said, the Respondent relies on his revised Statement of Case, served in December 2016. This document provides a paragraph by paragraph rebuttal of the Applicant's Statement of Case. Essentially, he denies that (a) he was financially dependent on the Applicant; (b) there was ever any agreement or understanding that she should have an interest in the Property, (which was bought in effect to provide an investment and security for his old age, since he had made no pension provision and had never paid National Insurance); and (c) that they ever made a joint mortgage application. He alleges that the Applicant was a "*spendaholic*" who was financially irresponsible, and that "*breeding, buying and selling Koi carp provides me with a reasonable income. This can be evidenced.*" He alleges that any sums paid by the Applicant in respect of the Property – such as mortgage repayments – were reimbursed by him in cash. Generally, he denies any basis for the Applicant's claims to an interest in the Property. He also denies that he locked the Applicant out of the Property, and makes a number of allegations about her conduct.
9. Before I consider the oral evidence that I heard, I shall refer to the financial information that has been documented. Ms Stewart, for the Applicant, has collated the information obtained from the bank statements that have been disclosed, and produced a comprehensive schedule of payments, relating both to the Property itself and to general household expenditure. Mr Giret QC accepts that these figures are correctly calculated, whilst not accepting that the descriptions applied to these payments – in respect of food and housekeeping for example – are necessarily accurate. Ms Stewart was able to identify a total

documented expenditure by the Applicant of approaching £90,000, for the period 14th October 2009 (when the Property was purchased) and 2nd January 2015, when she ceased to make the mortgage repayments after the parties had separated. These sums comprise, in addition to the mortgage repayments, Council Tax, home insurance, electricity and water charges, and are, of course, directly referable to the Property.

10. In addition to the Property-related expenditure, Ms Stewart has attempted to establish the amounts spent by the Applicant on food and other household expenses during the period of cohabitation at the Property. This she has done by analysing the Applicant's bank statements, and extracting debits to supermarkets and restaurants, on the basis that these must represent expenditure on the family's food. For the period between September 2009 and January 2015 she reaches a figure of some £13,000. She has also produced a figure in excess of £4,500 for a 12-month period immediately prior to the purchase of the Property. She has also carried out the same exercise by reference to the Respondent's bank statements. Whilst the exact figures are impossible to establish, it is quite apparent that the Respondent's documented outgoings on items relating to the Property, or to general household expenditure, are very considerably less than those of the Applicant.
11. Of course, it is impossible at this remove to identify exactly what is represented by the Applicant's payments to Tesco, or Asda or other shops. Some or most could be for the family's food – or it could be for clothes or luxuries for the Applicant, for example, as the Respondent has suggested. However, it is undeniable that she has paid, and can be seen to have paid, virtually all of the regular outgoings on the Property including by far the biggest item, namely the mortgage repayments. The Respondent has an answer for this. He says that the Applicant wanted to make the payments in order to improve her credit rating, but he always funded her outgoings by way of cash reimbursement. This is consistent with the core of his case, namely that the Applicant was never intended to have any interest in the Property and he therefore assumed complete financial responsibility in relation to it. The Applicant, of course, denies this. This is the central evidential conflict. Resolution of this conflict depends to a large extent on my assessment of the respective witnesses.

12. I shall begin with the Respondent. I found many aspects of his evidence unsatisfactory.

- a. First, his insistence that the Applicant was never intended to be one of the purchasers, which is perhaps the key dispute between the parties. The Applicant says that she was always intended to be a joint purchaser and joint mortgagor – this was to be a family home. Her explanation for her omission from the title was that she was refused a mortgage due to her poor credit history. The Respondent denies this. There is in evidence an exchange of correspondence between the Applicant and Mr Binu Sood of the Halifax. In his email dated 7th August 2015 he confirmed that both parties initially applied for a mortgage but the Applicant's application was refused due to her credit record. It seems that the Respondent required clarification of this email, and arranged a meeting with a Mr Bhandai, the mortgage manager at the branch. He wrote to the Respondent on 9th November 2015 in these terms: *"I refer to our meeting on Tuesday 3rd November 2015 in connection with your mortgage. I write to clarify in connection with an email sent to Miss Malika Bouchiba on the 7th August 2015 by Binu Sood. I can confirm that at the time of the initial enquiry no property details are entered. At this stage we would have completed a credit check in the joint names of Mr Shane Turner and Miss Malika Bouchiba to provide an agreement in principle. This was declined and we were unable to proceed."* Mr Turner was closely questioned on this letter, and continued to insist that they had never contemplated a joint mortgage or joint purchase with the Halifax, the eventual lenders and mortgagees of the Property. He was unable to explain, however, why the records of the Halifax provided evidence of a joint application for a loan "in principle", albeit that no specific property was mentioned at that stage. That is quite inconsistent with his case.
- b. Just as he insisted that there was no intention that the Applicant should be a joint purchaser, equally he maintained that she had nothing to do with the eventual choice of the Property as a home. However, the Applicant was able to produce the records of an estate agent who had noted the parties' interest in a property in Feltham. Both the Applicant and the

Respondent are noted as proposed purchasers. In his Statement of Case he seeks to explain this anomaly on the grounds that he “*looked into*” a joint purchase and joint mortgage “*under duress*”. He agrees that they went to an unnamed bank to apply for a mortgage, but she was turned down due to a previous bankruptcy. No evidence of any previous bankruptcy has been produced and the applicant denies it. Furthermore, this does not explain the dealings with the Halifax referred to above. If the unnamed bank had been the Halifax, no doubt the Respondent would have said so.

- c. Throughout his evidence the Respondent insisted that he had made substantial payments for the maintenance of his son and the household generally, and further that he had reimbursed the Applicant in full for all her payments in respect of the Property. According to the schedule set out in his Statement of Case, this totals £233,329.02, including the figure of £74,211.06 for the “*cost of purchase*”. He adds – “*This does not show all my expenditure however more can be proven through receipts.*” In addition, he states that he has carried out substantial building works to the Property using his own time and money. This expenditure necessarily requires a source or sources of income to fund it. In his Statement of Case he sets out a number of jobs for the period 1995-2000, and 2006-2012. He also states that his “*hobby, (Koi carp large fish), breeding, buying and selling Koi carp provides me with a reasonable income. This can be evidenced.*” This version of the Statement of Case was dated 21st April 2016.
- d. Directions for disclosure of documents were given by the Tribunal in the usual way, and certain documents were disclosed by the Respondent. However, by letter dated 2nd November 2016 the Applicant’s solicitors wrote to the Respondent, pointing out that his Statement of Case refers on numerous occasions to additional documentation that can be provided to evidence both his income and expenditure. The solicitors invited the Respondent to produce the documentation referred, together with a number of other documents itemised at numbered point 1 to 5 in the letter. This includes all tax returns and associated records, evidence from DWP relating to benefits received, and “*any other documentation which you*

consider evidences your source of income/funds.” This resulted in a further version of the Statement of Case and some additional, but far from comprehensive, disclosure. When he was challenged in cross-examination about the lack of supporting documentation, Mr Turner simply responded that he always dealt in cash. When challenged about the lack of documentation from HMRC his response was that he had never filled in a tax return, and had never paid tax other than on one employment when he was PAYE registered. When asked to estimate the income from his “hobby” he replied that it totalled approximately £90,000 per year (derived from sales, and a side-line in cleaning and clearing redundant carp ponds), but he was unable to verify this because it was a cash business. He confirmed that he did not pay tax on these sums and therefore there was no need to record the sales, even for his own accounting purposes. However, it was clear that he did have some additional documents which he had not disclosed. Despite the specific request in the letter of 2nd November 2016 for copies of all bank statements, Mr Turner produced a sheet for a previously undisclosed bank account, evidencing the payment of one of the mortgage instalments. This related to the July 2014 payment, which the Applicant had been unable to make due to lack of funds, and is the only documented payment made by the Respondent during the period of cohabitation.

- e. Accordingly, the Respondent is unable to verify his alleged payments, both by way of direct cash reimbursement, or general maintenance and housekeeping, over and above the limited financial records that he has supplied. The Applicant accepts that he has received sums from Hounslow and Richmond since 2008 as a self-employed contractor. Indeed, she accepts that this influx of money enabled him to provide the deposit on the Property. Whilst of course, as Mr Giret QC submits, there are people who “*fly under the radar*” and embrace the cash economy, in my judgment it is wholly implausible that the Respondent is unable to verify any income other than the sums that passed through his bank account. His claim to have an income of £90,000 per year and yet be unable to produce more than a handful of supporting documents is

incredible. Where documents do exist to cross-check his figures, he exaggerates his expenditure. One obvious example is his claim that he spent more than £74,000 on purchase costs for the Property. The completion statement is in evidence and this discloses a total cost (including fees etc.) of £41,000. When challenged over the very precise figures itemised in his Statement of Case, and his inability to explain how he reached them, he readily accepted that he might have made “*a few errors*”.

- f. Furthermore, the whole premise of his case – that the Applicant only paid the outgoings on the Property in order to improve her own credit rating – makes no sense. Her explanation is far more probable – namely, that she was the only one in a financial position to make these payments. Equally, no explanation is given why – when her payment in July 2014 is dishonoured for lack of funds – it was necessary for the Respondent to make the payment via his bank account. On his case, he would simply have provided the required sum in cash to her so that she could top up her account.
- g. In cross-examination, he was asked about his current financial position. He accepted that he was renting out a double room at the Property at some £600 per month. He volunteered the answer that this was “*to cover shortfalls in the mortgage payments.*” Clearly, if his income was even remotely close to the figure that he estimated, he would have no need for this income to meet the mortgage repayments. It is far more likely that the loss of the Applicant’s income made it impossible for him to fund the mortgage, just as she contended.
- h. In cross-examination, the Respondent denied that he ever cohabited with the Applicant and her children at 28 Waterloo Close as a family. He grudgingly accepted that he sometimes stayed there, but was at pains to make a distinction between that and cohabitation. He said that his “fixed abode” was his parents’ house at 42 Robin Close. When it was pointed out that he had given the Waterloo Close address to his bank, and received statements and other communications at that address, his explanation was

that his mother would have thrown the letters away due to her dementia, if they had been sent to Robin Close. Indeed, not one single document addressed to the Respondent at Robin Close has been produced. Again, this explanation is simply incredible. Furthermore, the Respondent accepts that he asked the Applicant to marry him and gave her an engagement ring. It is of course common ground that they had a child together even before the Applicant became the tenant of Waterloo Close. Mr Turner's denial of the significance of the relationship is unconvincing, contradicted by the objective facts, and obviously self-serving. If further evidence of the depth of the relationship was required, this can be found in the letters he wrote to the Applicant after the separation.

- i. Mr Turner has tried to paint a very negative picture of the Applicant. He accuses her of bullying him, of being a reckless "*spendaholic*" whose overspending was responsible for her financial plight. He accuses her of fraud in relation to the letting of Waterloo Close. He accuses her of domestic abuse. These allegations are of course easy to make. Interestingly, however, the documentation that he himself provides suggests a somewhat different character. I shall give an obvious example. In his Statement of Case he refers to an incident when she and Gemma allegedly "*spent 1 ½ hours bulling [sic] and berating me to put her on the deeds to the house or just sign it over to her...*" He then produces a document given to him by the Applicant relating to the Property, which "*proves that various, numerous claims and statements made in the applicant's statement of case to be factually incorrect.*" The document [28E] in question appears professionally drawn, and contains an agreement that the Property is owned as tenants in common in equal shares, and that it will be sold. There is a note written by the Applicant on the front, as follows: "*Shane, agreement drawn up re; house. Please read, take advice from your solicitor and call me to arrange signature [sic] with witnesses of choice Thanks Malika.*" Far from trying to pressure the Respondent into signing the document, it is clear that she was suggesting that he should obtain legal advice on it before signing. This completely contradicts the impression which he tries to create, of the

Applicant as a bullying and domineering woman, with the Respondent as her victim. This may well be the perception that he now has, but that is not borne out by the objective facts.

- j. Having regard to his evidence as a whole, I consider that it contains a series of improbable and implausible explanations which are inconsistent with the documents and other verification produced by the Applicant.

13. By contrast, the Applicant was a straightforward and candid witness. Her version of the disputed facts was almost always supported by documentation, some of which I have described. She has amply demonstrated a serious financial contribution to the purchase of the Property and to its upkeep.

14. There is, as I have explained, a fundamental conflict between the evidence of the Applicant and that of the Respondent. In view of my reservations, I unhesitatingly prefer the Applicant's evidence where it conflicts with that of the Respondent. My findings of fact are as follows:

- a. The Property was purchased as a home for the family unit consisting of the parties and their son Alexander.
- b. The original intention was that both parties would be purchasers and joint owners, but the rejection of the Applicant's "in principle" loan application meant that this was not possible.
- c. When the Applicant expressed concern about her position if she could not be on the title to the Property, the Respondent reassured her that she had an interest in the Property and at some point in the future her name would be put on the title. This was confirmation of the common intention, or alternatively a representation to the same effect.
- d. In furtherance of the common intention that she should have a beneficial interest in the Property, the Applicant serviced the mortgage and paid the other recurring outgoings on the Property. These were not reimbursed by the Respondent. Alternatively, these payments were made in reliance on the Respondent's representation.

- e. Insofar as this may be relevant, the parties cohabited as a family unit from 1995 onwards, and the Applicant took on the primary financial burden of maintaining the family. The Respondent only worked for short periods until 2008, and the Applicant was the only consistent source of income throughout this period.
15. Applying the authorities which I have referred to in paragraph 4 above, I hold that the Applicant is entitled to a beneficial interest in the Property on the basis of a common intention constructive trust. Alternatively, that she has acquired an interest in the Property by way of proprietary estoppel, it being unconscionable for the Respondent to resile from the clear representation that she would have an interest in the Property, upon which she relied to her detriment.
16. Both parties have invited me to declare the size of each party's beneficial interest. I cannot make a declaration as such, but of course in order to resolve this dispute I have had to make findings as to whether or not the Applicant has a beneficial interest such as to support the entry of a restriction. As part and parcel of those findings, I am entitled to make findings of fact as to the size of their respective shares, in the light of the guidance provided in the decided cases. Ms Stewart has set out the relevant principles at paragraphs 14 (e) to (g) and 15 to 17 of her Skeleton Argument. As I have mentioned previously, Mr Giret QC accepts these statements of the law. In the absence of express agreement as to the size of the respective shares, and where there is insufficient material from which to infer such an agreement or common intention, it is necessary for the court or tribunal to impute to the parties an intention as to the size of the shares. In carrying out this exercise, the most useful guidance is derived from the list of factors identified by Lady Hale in Stack v Dowden, which Ms Stewart has helpfully set out in paragraph 15 (a) to (i) of her Skeleton Argument. The approach to the quantification of the parties' respective shares was described as "holistic", which nicely conveys the elasticity of the exercise.
17. In my judgment, having regard to the whole course of dealing between the parties in relation to the Property, and to the guidance given by Lady Hale, the parties intended the Property to be beneficially owned in equal shares. Some of the more important factors which lead to that conclusion are as follows:

- a. The Property was bought as a home for the parties and for their son Alexander;
 - b. The parties had joint financial responsibility for Alexander;
 - c. It would not have been possible for the parties to have purchased the Property (or any equivalent home) without the Respondent's substantial cash injection worth in excess of £40,000;
 - d. This cash injection represented the Respondent's entire savings;
 - e. It was always contemplated that the Respondent would undertake substantial works of improvement to the Property, thus adding to its value going forward;
 - f. It was always contemplated that the Property would eventually be sold and the proceeds used to acquire a home for the parties' retirement;
 - g. The Respondent did not have any available pension provision and was concerned to ensure his future financial security;
18. Of course, the Applicant is able to point to the fact that she undertook responsibility for all the mortgage repayments and other outgoings. She relies on this fact to justify her claim to an 80% share in the Property. However, as the authorities make clear, intentions are not to be imputed on the basis of a narrow mathematical exercise. Many other factors are in play. Having regard to the totality of the evidence, and the view I have formed as to the relationship between the parties and their respective characters, I have reached the conclusion that their intention was that the Property should be beneficially owned in equal shares.
19. I shall therefore direct the Chief Land Registrar to give effect to the Applicant's application dated 27th May 2015. In relation to costs, I am minded to order the Respondent to pay the Applicant's costs to be subject to a detailed assessment on the standard basis. If the Respondent wishes to object to such an order, I direct him to make his submissions in writing no later than 7 days after service of this Decision upon him.

Dated this 17th day of May 2017

Owen Rfrys

BY ORDER OF THE TRIBUNAL

