

- [4] The applicant wife says that the husband gives her \$50.00 per day for the maintenance of herself and the children. She says he earns \$250.00-\$300.00 per day from plying his bus for hire. She does not say if this is net or gross income. The evidence of the husband is that he earns about \$100.00 per day net. His bus is a 1997 model vehicle and not in very good condition. He has no earnings from farming and is not always able to pay the wife \$50.00 per day without the assistance of his mother or adult children. He now resides with his mother. He has no savings. He is repaying a small loan at the rate of \$300.00 per month.
- [5] Considering all of the circumstances of this case as Section 25 of the Matrimonial Causes Act requires me to do, I find firstly that I cannot accede to the wife's prayer that she be awarded a lump sum payment. The husband simply has no assets out of which such an order can be satisfied. As far as the application for the property adjustment order goes I am content to order that the matrimonial home be held equally by the parties to this lengthy marriage.
- [6] What is equally clear is that it provides the only accommodation for the wife and children. No value was adduced for the home but it is unlikely that one half of the proceeds of sale will be enough to secure a home for the wife and children or the husband at this time. Both counsel in their helpful written submissions suggested that an order for the sale of the matrimonial home be postponed until the youngest child attains the age of maturity. This seems eminently sensible to me.
- [7] The order of the court is for the wife to remain resident in the matrimonial home with the minor children until the youngest reaches the age of 18 years. Thereafter both parties are at liberty to procure a sale of the home and the proceeds of such sale are to be equally divided between the husband and wife.
- [8] No evidence was led which persuaded me that the husband is able to pay maintenance at any rate above that which he now does voluntarily. I therefore order that he continue to pay maintenance at the rate of \$50.00 per day for the wife and children. I thank counsel for their assistance in this matter and make no order as to costs.



A handwritten signature in black ink, appearing to read "Brian Cottle".

Brian Cottle
High Court Judge