

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CLAIM NO: ANUHMT2013/0091

BETWEEN:

TERRY-ANN BENJAMIN HECTOR

Petitioner

AND

CHE FRANTZ HECTOR

Respondent

Appearances:

Ms. C. Debra Burnette for the Petitioner

Ms. Gail Pero-Weston for the Respondent

2014: June 18
July 03
July 08
December 8

JUDGEMENT

[1] **Cottle, J.:** The parties were married on 20th March, 2000. On 20th June, 2013 the petitioner filed for divorce. By an application of even date the petitioner seeks an order for maintenance of the

two minor children now aged 13 and 9 respectively. The petitioner wished the court to order the respondent to pay \$6,000 per month for the maintenance of the children who both live with the petitioner. She also prays for an order granting her custody of the children with liberal access to the respondent.

[2] The petitioner is now 43 years old. She is a human resource manager of a telecommunication company. After taxes and other deductions she earns \$10,467.04 per month. The respondent now lives and works in Puerto Rico. He earns \$5,072.21 per fortnight.

[3] Section 13(5) of the Divorce Act, 1997 sets out the matters which the court must consider when making an order for maintenance of children. These are the conditions, means, needs and other circumstances of each spouse and the children for whom maintenance is sought. The court must also bear in mind the length of time the parties cohabited as well as the functions performed by each spouse during the cohabitation among other things.

[4] The parties to this matter have been living apart since 2011. They were married on 20th March, 2000. In her affidavit in support the petitioner lists her monthly expenses. These amount to \$19,065.48. The respondent says his monthly expenses amount to \$8,780.40. Included in this is \$1,700 he pays for the care of an elderly aunt and \$300 for gym membership. He is also responsible for paying the mortgage for the home where the petitioner resides with the minor children in the sum of \$2,700 monthly. The expenses outlined by the petitioner are myriad. They include several loan repayments. If the expenses related to the children are extracted, that is, towards food and utilities, the school supplies, uniforms, entertainment and birthday celebrations expenses, I arrive at a monthly total of \$4,848.66 as applicable to the upkeep of the children.

[5] The parties have a joint responsibility to maintain the children. The earning capacity of the parties is virtually equal. Having regard to the fact that the respondent is entirely saddled with the payment of the mortgage installments and taking into account the matters which the legislation requires the court to consider I fix the amount of the respondent's maintenance payments for the minor children at \$2,000 monthly.

[6] Both parties will have joint custody with the petitioner retaining primary care and control. I will make no order as to costs of this application.

Brian Cottle
High Court Judge