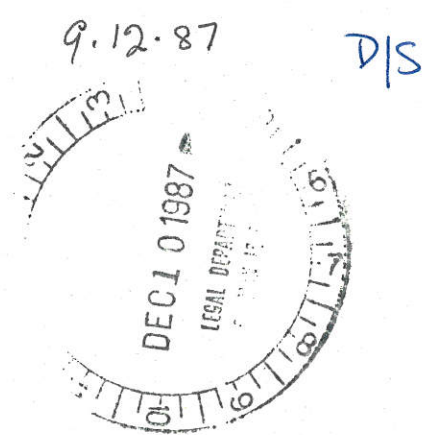


IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN
BEFORE THE HON MR JUSTICE HULL
IN CHAMBERS
CAUSE NO: 268 OF 1987



IN THE MATTER OF AN APPLICATION PURSUANT TO
SECTION 3A OF THE CONFIDENTIAL RELATIONSHIPS
PRESERVATION LAW AMENDED.

Mr. Ritch for the applicant.
Miss Brooks for the Attorney-General.



Reasons for Order

The applicant is the petitioner in matrimonial proceedings which are pending before this Court.

Some months ago, in one of those proceedings, she applied for maintenance pending suit. Her husband opposed that application. After a fairly lengthy hearing I made an order pending suit in her favour. This was based on my findings at that time as to her means and needs, and those of her husband.

She has now come back before me seeking directions under section 3A of the Confidential Relationships (Preservation) Law 1979 enabling her to use in the matrimonial proceeding information which she says she discovered in the matrimonial home. In paragraph 8 of her supporting affidavit, she says this:

"That I have in my possession several files of documents which consist of, inter alia, confidential information relating to the financial affairs of myself and my husband. Most of these documents were discovered by me in the owner's closet of our condominium about two months after my husband deserted the matrimonial home."

Since the hearing, she has changed lawyers. She says that she has been advised that the information has a material bearing on the question of maintenance pending suit and that she has a claim for an amount far greater than that which was awarded to her. She says that her husband has failed to make full and frank disclosure of his means, and she also says that unless she is allowed to give the information in evidence she will, ultimately, be denied her just claim for "maintenance and for periodic or lump sum payments" in the suits.

To her affidavit she has annexed what she describes as a representative sample of the documents which contain the information.

Mr. Ritch said it was his client's case that some of the information related to the parties' joint property but some of it concerned the husband's own property. It was desired to use it in evidence but the respondent would never consent to this and so directions under section 3A were necessary. It was relevant and admissible evidence.

Miss Brooks submitted that insofar as the information related to joint property, the applicant was a principal so that no application under section 3A was necessary. In relation to the other information, the Attorney-General did not consider that any question of public policy was involved and regarded it simply as a matrimonial matter. The burden rested on the husband to show why it ought not to be disclosed.

Mr. Ritch in reply said that if the husband knew of the application there was a risk that he would dissipate assets. The petitioner wished to be able to apply for an injunction. The information did not disclose any information about third parties.

It is not readily apparent from the exhibits themselves that all of the information is relevant. To the extent that it is, obviously there is a question, so far as the order pending suit is concerned, as to whether the petitioner ought to have taken steps to adduce it then. However, it may of course also be relevant to the final disposal of ancillary matters.

There is nothing on the face of the documents themselves to show that the information relates to third persons. This being an ex parte application, the petitioner is under a strict duty to tell the court if she knows that it does. She does not say that it does. Although her husband is in the banking business, the documents on their face do not in fact reveal anything about third persons.

As between the husband and wife, I do not consider that this is, prima facie, confidential information to which the Law applies. Accordingly, on the evidence adduced before me on this application I held that I have no jurisdiction to give directions under section 3A. It follows that so far as the petitioner is concerned, she is at liberty to use them.

D. Hull.

David Hull
Puisne Judge

9 December 1987.