



ENFORCEMENT: WHAT ARE
THE LEGAL AND PRACTICAL
OPTIONS?

ARCHNA DAWAR
DEANS COURT CHAMBERS

REMEDIES

- Orders against property or money.
- Orders against the person.

Starting point: Rule 33 FPR 2010

- Application with statement
- Amount due
- Specify the method of enforcement OR
- An order for such method of enforcement as the court may consider appropriate.

LAW COMMISSION

- 4,200 enforcement cases a year
- Non compliance per year: £15 – 20 million
- 34% family proceedings – neither party is represented

AMIN v AMIN [2017] EWCA 1114

- 2014
- W to receive 50%
- £100k (transfer of property) + £350,000
- Balance was 50% PSO
- Moylan J wanted to see if H complied – if H fails he invited the W to ‘enforce’

AMIN v AMIN [2017] EWCA 1114

- 2015: W applied to enforce the lump sum via the pension.
- Order: 76% of the pension value.
- Plus interest for non payment of the lump sum.
- H appealed to CoA

Appeal dismissed...

- Variation of the lump sum or ordering a second lump sum was not permissible.
- Actuarial evidence was not required;
- Had the judge conferred an additional benefit?

Blight v Brewster [2012] EWHC 165 (CH)

- C1's application for enforcement a judgment debt
- D had the right to drawdown a lump sum of 25% of his pension

High Court: Mr Moss QC

- D was ordered to delegate his power of election to the Cl's solicitor;
- Cl's solicitor authorised to make the election;
- Third Party Debt Order.

Horton v Henry [2016] EWCA Civ 989

- B v B order can not be made against a person who is bankrupt.
- Statutory protection given to the bankrupt's pension.

Goyal v Goyal [2017] FLR 236

- Pension sharing order not available to overseas pensions.
- Confirmed that Blight v Brewster order could be used

Mostyn J

- PPs order
- 2/3 of income to to W
- Paid into W's account
- 'bolstering injunction' compelled H to procure the payments to W.

Beverley Morris and Phillip Cayford QC

- Family Law: February 2017
- Enforce a lump sum order
- R : occupational pension scheme.
- 55 years
- Lower court had made a B v B order
- Trustees objected – transfer to High Court

Remedy available

- occupational pension scheme,
- money purchase pension scheme or
- defined benefit scheme.

Welch v Welch [2017] EWFC

- 2014
- Order for Sale of FMH
- W frustrating sale
- 2017 H secured a purchaser
- Sale was lost
- H found another purchaser

Welch v Welch [2017] EWFC

- S39 (1) Senior court Act 1981
- Opportunity for W to sign
- Tight time scale
- Signature by a person **WITHOUT** the purchasers named.
- Hearing without notice.

CONCLUSION

- Watch out for the proposed changes suggested by the Law Commission.
- Pensions are the an excellent way resource for enforcement.



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