NOVA SCOTIA COURT OF APPEAL
Citation: *White v. White*, 2016 NSCA 82

Date: 20161110
Docket: CA 449482
Registry: Halifax

Between:

Glenn Parker White

Appellant

v.

Karen Nadine White

Respondent

Judges:	MacDonald, C.J.N.S.; Hamilton and Beveridge, JJ.A.
Appeal Heard:	September 27, 2016, in Halifax, Nova Scotia
Held:	Appeal dismissed with costs, per reasons for judgment of MacDonald, C.J.N.S.; Hamilton and Beveridge, JJ.A. concurring
Counsel:	Lloyd I. Berliner, for the appellant Peggy Power and Patrick O'Neil, for the respondent

Reasons for judgment:

[1] The appellant husband challenges Supreme Court Justice Margaret Stewart's $11,000 monthly spousal support award. Primarily, he asserts that the judge overestimated his earning capacity. He also complains that the judge: (a) underestimated the respondent wife's ability to earn income; (b) overestimated her needs; and (c) needlessly encumbered his assets to secure the payments.

[2] For the reasons that follow, I would dismiss the appeal. In short, the award flows from reasonable factual findings that are solidly grounded in the evidence, while the security order represents a legitimate exercise of discretion.

BACKGROUND

[3] The parties had a 30-year traditional marriage. Mr. White earned considerable income in the oil industry, while Ms. White was a stay-at-home mom, caring for their two (now adult) children.

[4] Following their May 2013 separation, the parties agreed to have Mr. White pay monthly tax-free support of $7,000. In September of 2015, the parties held settlement negotiations and settled everything but the spousal support issue. This would be left for Justice Stewart to resolve later that fall. In the meantime (with Mr. White having recently been unemployed), Ms. White agreed to a reduced tax free payment of $4,000 monthly.

[5] Justice Stewart heard the parties in November as anticipated. To his credit, Mr. White acknowledged Ms. White's entitlement to indefinite spousal support. In doing so, he recognized that theirs was a traditional marriage, where Ms. White's opportunity for a career outside the home was sacrificed to raise the children. That left only the amount of spousal support to be determined.

[6] Justice Stewart's task was complicated by Mr. White's recent job loss. She would have to make a host of factual determinations, with many based on inference. For example, was he unemployed by choice? If not, what were his prospects? How long would it take him to find work? How much would he make? What, if anything, could he afford until he found work?

[7] In her December, 2015 decision, Justice Stewart made all the necessary findings. First, she found that Mr. Stewart was not unemployed by choice:

> [33] Although fortuitously occurring on the eve of returning home to address the divorce issues, I am satisfied that Mr. White's employment termination on August 30, 2015, was not voluntary for the following reasons: (1) his subsequent actions after the May 2013 e-mails of making regular agreed-upon spousal support payments for two-and-one-half years prior to trial; (2) not seizing the moment three months later in late August 2013 to leave his thirty-plus-year employment; rather, he contracted with Rowan in Singapore; (3) his efforts through a head-hunting company to investigate work prospects when Rowan was in the process of downsizing various positions that he was overseeing; (4) his stated acknowledgement that circumstances of the marriage require support and his expressed intention to pay it; (5) his not testifying to an absence of work prospects, or the impossibility of finding work beyond his own physical limitations of working on the rigs, but rather, projecting a return to the workforce within months and referencing locations of possible work, while being receptive to any location with particular interest in pursuing potential work in Nova Scotia; (6) Mrs. White's own acknowledgment that downsizing in the oil industry was occurring.
>
> [34] As such, I accept Mr. White's evidence. His present employment circumstances were not brought about for the purpose of frustrating the existing spousal support arrangement.

[8] Yet, she also found that Mr. White's prospects looked good:

> [35] I am not prepared to find Mr. White has no ability to pay spousal support. Although his income is presently compromised, Mr. White has significant earning capacity and except for physical rig work, has an ability to work in the industry. He is knowledgeable and experienced. He wants and intends to work, is optimistic that work is available and, in describing possibilities, he did not suggest that in all likelihood his Rowan income would not be feasible. He has skill-sets inclusive of extensive budgeting and managerial abilities that are transposable to other areas in the workforce.

[9] Furthermore, she found that since the separation, he had significant money at his disposal:

> [36] In addition since separation, Mr. White has acquired resources in the form of shares and I find that he has significant cash savings. I say this because, when I consider a 19-month post-separation period of earning well in excess of $500,000, eight months earning $295,232, and Mr. White's access to and use of $363,000 since June 2013, I cannot accept that he only saved approximately $147,000. By his own March 2014 expense statement, he was budgeting some $11,000 in savings and surplus per month, and $2,000 for entertainment, while having sole access to and use of $363,000 of cashed-in shares for that very purpose. Certainly, since receiving his last pay in August 2015 and returning home, his living

> expenses were nominal, even if this cannot be said for his entertainment. Mr. White was not forthright in accounting for all of his savings. Even acknowledging $12,000 for the last three months of support, and what is now prepaid rent of $35,000, I would estimate his savings to be at least between $250,000 and $304,000, more likely close to the higher amount. These are savings that could be said to flow from Mrs. White not receiving an equal sharing of the income stream in circumstances where this could be contemplated: no children, no debt, and a 25-year agreement to remain out of the work force, all within a 30 year relationship. Any spousal support payable will now be taxable to Mrs. White.

[10] His promising job prospects and significant post-separation income, therefore, prompted the judge to order the $11,000 monthly:

> [37] Mr. White has the means by virtue of his "pecuniary resources, capital assets, and earning capacity" (*Leskun*, supra) to pay spousal support based on an income of at least $350,000, although his means are likely considerably greater. Thus, indefinite periodic spousal support is set at $11,000 per month payable on the 1st day of each month commencing December 1st, 2015. Although Mrs. White's compensatory claim is not adequately addressed by this monthly amount, this periodic quantum is nonetheless appropriate at this time given the circumstances and the statutory provisions governing the hearing.

ISSUES

[11] Mr. White lists the following grounds of appeal:

(1) The learned Trial Judge erred in law by imputing an income of $350,000 to the Appellant in light of the evidence and findings with respect to the Appellant being unemployed.

(2) The learned Trial Judge erred in law and fact by ordering spousal support be set at the amount of $11,000 per month, for an indefinite period of time, in light of findings that the Appellant's income is presently compromised as a result of his being unemployed.

(3) The learned Trial Judge erred in law and fact by ordering spousal support be set in the amount of $11,000 per month, for an indefinite period of time, without accounting for the Respondent's means and needs.

(4) By ordering spousal support be set in the amount of $11,000 per month for an indefinite period of time, the learned Trial Judge effectively ordered retroactive spousal support without the test being met.

(5) The learned Trial Judge erred in law by ordering spousal support be set in the amount of $11,000 per month for an indefinite period of time and in light of the Appellant's being unemployed thereby breaching the rules of double dipping.

> (6) The learned Trial Judge erred in law and fact by ordering spousal support be secured against all real and personal property held by the Appellant in Nova Scotia and in light of the Appellant's current employment status thereby limiting his ability to access his assets for payment of spousal support.
>
> (7) The learned Trial Judge erred in law by ordering spousal support be secured against the Respondent's personal property held in Nova Scotia by placing security on his RRSPs that he retained following the asset division.
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> (8) And such other grounds for appeal as may be evident from a review of the Court transcript.

[12] In his factum and oral argument these grounds were grouped into three categories: (a) imputing the appellant's income (ground 1); (b) other considerations relating to the quantum of support (grounds 2-5); and (c) the security order (grounds 6-7).

[13] In my analysis that follows, I will consider the same categories. In the process, I will be mindful of the deference owed to Justice Stewart. This Court in *MacLennan v. MacLennan*, 2003 NSCA 9 explained:

> 9 In both support and division of property cases, a deferential standard of appellate review has been adopted: *Corkum v. Corkum* (1989), 20 R.F.L. (3d) 197 (N.S.C.A.); *MacIsaac v. MacIsaac* (1996), 150 N.S.R. (2d) 321 (C.A.); *Roberts v. Shotton* (1997), 156 N.S.R. (2d) 47 (C.A.). The determination of support and division of property requires the exercise of judicial discretion. Provided that the judge of first instance applies correct principles and does not make a palpable and overriding error of fact, the exercise of such discretion will not be interfered with on appeal unless its result is so clearly wrong as to amount to an injustice: *Heinemann v. Heinemann* (1989), 91 N.S.R. (2d) 136 (N.S. C.A.) at 162; *LeBlanc v. LeBlanc*, [1988] 1 S.C.R. 217 (S.C.C.) at 223 - 24; *Elsom v. Elsom*, [1989] 1 S.C.R. 1367 (S.C.C.) at 1374 - 77; *Hickey v. Hickey*, [1999] 2 S.C.R. 518 (S.C.C.) at paras. 10 - 13.

ANALYSIS

Imputing the Appellant's Income

[14] Here, Mr. White asserts that the judge had insufficient evidence to impute an annual income of $350,000. He summarizes it this way in his factum:

> 22. Considering the foregoing, it is respectfully submitted that the comments of the learned Trial Judge do not provide a "solid evidentiary foundation" for imputing an annual income of $350,000 to Mr. White. Based upon the learned

> Trial Judge's comments and finding that Mr. White's termination of employment was not voluntary, the imputation is undoubtedly arbitrary, and therefore an error in principle.

[15] Yet, Mr. White takes no issue with this income assessment by the judge:

> [21] As per his Statement of Income, Mr. White began working for RDIS on October 1, 2013. In 2013, he earned $501,422, through his old company and $82,550 USD thru RDIS. In 2014, he earned $594,482 USD. Per his March 23, 2014 expense statement, besides accounting for payments of $7,000 per month spousal support, some $11,000 surplus per month was allotted to retirement savings, savings and extra cash flow while the company continued to deduct pension payments. In 2015, he worked until August 31 and earned $295,232.42 USD; basically, monthly earnings of $23,150 ($185, 201.12) with incentive payment, home leave, statutory holidays and stock dividends making up the rest. The Canadian bonus payments ended December 31, 2014. His August 2015 pay statement also reflects that he was in receipt of restricted stock valued at $86,836 USD. Company pension deductions for 2014 and 2015 total $16,660 USD.

[16] In short, Mr. White enjoyed an annual salary of over $500,000 (USD).

[17] As to Mr. White's efforts to find work, he offered this evidence:

> Q. Are there any companies in particular that you've been in contact with?
>
> A. Yeah, I've been in contact with Ensco, Noble Drilling, Diamond Offshore Limited and a Norwegian firm called Sea Drill.

[18] As to his prospects, Mr. White remained hopeful:

> **Ms. Power:** Do you have…you have the capacity to work, correct?
>
> …
>
> **A.** I hope to get a job if that's what you mean, yes.

[19] There was ample evidence for the judge to impute annual income of "at least" $350,000. This finding does not reflect an error in principle.

Other Considerations Relating to the Quantum of Support

[20] The Appellant attacks the judge's decision to order $11,000 monthly on four other fronts:

- failing to impute income to Ms. White;
- imposing a *de facto* retroactive award when none was sought;

- awarding more than Ms. White needed; and
- failing to account for Mr. White's inability to pay.

I will address each line of attack in order.

Ms. White's Income

[21] Here, Mr. White asserts that the judge erred by not accounting for Ms. White's ability to: (a) use the liquid assets she received in their property settlement to generate income; and (b) earn rental income from the basement apartment in the matrimonial home for 12 months a year as opposed to just the summer months. He explains in his factum:

> 25. After the settlement conferences in August and September 2015, the parties agreed upon division of property, which resulted in Ms. White retaining approximately $650,000 in assets – including approximately $348,000 in liquid assets. While the Appellant acknowledges that Ms. White – given her age, lack of experience in the workforce, and health issues – may not be able to obtain gainful employment, it is respectfully submitted that an income should have been imputed to Ms. White based upon her reasonable duty to use the assets attributed to her in an income-producing way. This duty of payee spouses was outlined by Major J in *Boston v Boston*, 2001 SCC 43 [*Boston*]:
>
> > 54 … When a pension is dealt with by the lump-sum method, the pension-holding spouse (here the husband) must transfer real assets to the payee spouse (here the wife) in order to equalize matrimonial property. The wife can use these real assets immediately. Under a compensatory spousal support order or agreement, the wife has an obligation to use these assets in an income-producing way. She need not dedicate the equalization assets to investment immediately on receiving them; however, she must use them to generate income when the pension-holding spouse retires. The ideal would be if the payee spouse generated sufficient income or savings from her capital assets to equal the payor spouse's pension income. In any event, the payee spouse must use the assets received on equalization to create a "pension" to provide for her future support.
> >
> > 55 This requirement is based on the principle that, as far as it is reasonable, the payee spouse should attempt to generate economic self-sufficiency. Self-sufficiency is only one factor of many that is weighed. It is obvious that in most cases of long-term marriage, the goal of self-sufficiency is decidedly difficult to attain, particularly for spouses who remained at home during the marriage…

> 56 However, where the payee spouse receives assets on equalization in exchange for a part of her former spouse's pension entitlement, she must use those assets in a reasonable attempt to generate income at least by the time the pension starts to pay out. The reason for this requirement is clear. The payee spouse cannot save the assets that she receives upon equalization and choose instead to live on the liquidation of the payor spouse's pension when he retires. If she were permitted to do so, the payee spouse would accumulate an estate while the payor spouse's estate is liquidating.
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> …
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> 30. Furthermore, Ms. White has received a modest income from renting out the two-bedroom apartment in the basement of the matrimonial home for the past two summers. It is submitted that it is not unreasonable to conclude that Ms. White should be renting out this apartment year-round, and that her failure to do so means that rental income should be imputed to her.
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> 31. It is submitted that is was an error in principle for the learned Trial Judge to not impute an income to Ms. White based upon both investment income and rental income. Following from this, it is submitted that the decision to award $11,000 in spousal support to Ms. White was clearly wrong.

[22] While Ms. White may have received $348,000 in liquid assets as part of her share of the matrimonial property, the evidence shows that she did not have this available at the time of trial. The judge recognized this:

> [27] As a result of the August and September 2015 settlement conferences, the matrimonial property was divided equally. Karen White received an equalization payment of $95,000 and retained the matrimonial home valued at $263,000 (net); monies in the joint saving account, safety deposit box and home safe totalling $140,000; a burial plot valued at $525: a 2009 Tahoe valued at $15,000; a 2011 BMW valued at $21,000; a BMO RRSP valued at $42,561.21; a Wood Gundy RRSP valued at $52,470.17; and a $7,000 U.S. Dollar account. The cash in the bank account, safety deposit box and safe has been spent. $10,000 was used to install a kitchen in the basement in order to rent out two downstairs bedrooms. The two vehicles were traded in for $25,000 and a new Honda CRV purchased with the proceeds, along with a $14,000 loan with a monthly payment of $416.

[23] Nowhere in the decision did the judge fault Ms. White for disposing of these assets. The potential to generate income from what remained would be insignificant.

[24] The potential rental income as well is of little consequence. The judge acknowledged Ms. White's modest rental income:

> [30] With the installation of a basement kitchen, Mrs. White had income for the past two summers of $1,000 from renting out two bedrooms downstairs on a weekly basis for two months.

[25] Ms. White explained that workers from Ontario rented her basement for the past couple of summers. It would be pure speculation to suggest that this could become a year round arrangement. In any event, any such income would be very modest. In fact, Mr. White's counsel acknowledged this in his submissions before the trial judge:

> … and then I asked whether or not she was sure of that and she said yes and then following some further questions she then recalled the 2014 income as well, and it's not a lot of money. I'm not suggesting that ... My Lady, that this was going to relieve her of all of her needs for paying all of her expenses, but it should be something if, in fact, she is going to maintain that home. She's already shown that it is a potential income source. She should be using that to generate income.

[26] More importantly, the support order was based on more than Ms. White's means and needs. There was also a compensatory aspect, recognizing Ms. White's detrimental position coming out of the marriage. The judge explained:

> [4] An entitlement to compensatory support may be established where a spouse's ability to achieve self-sufficiency has been compromised by family commitments or where one spouse conferred a substantial career advantage on the other. Non-compensatory support considers a spouse's "actual ability to fend for herself or himself and the effort that was made to do so" (*Bracklow v Bracklow*, [1999] 1 S.C.R. 420, at para 40).
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> [5] Spousal support is governed by s. 15.2 of the *Divorce Act*, R.S.C. 1985, c. 3 (2d Supp). In order to determine entitlement and quantum of support, it is necessary to consider the objectives set out in s. 15.2(4) and (6), while acknowledging no one objective to be paramount.
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> [6] It is clear from *Bracklow*, supra, as well as *Moge v Moge*, [1992] 3 S.C.R. 813, and the 2005 *Spousal Support Advisory Guidelines*, that the longer the relationship and the closer the economic union, the stronger the presumptive claim becomes for an equal sharing of the income stream.
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> …
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> [23] Karen White has been out of the workforce since December 1988. She obtained her grade twelve equivalency by finishing grade 10 and taking two years of secretarial college, prior to the widespread use of computers. Throughout the cohabitation and marriage, except for a brief time prior to December 1988 when she worked at a law office and then did a short period of bookwork at home, she was entirely dependent on her husband as the income earner, which was a result

> of the parties' mutual agreement following an incident with one of the rigs. She is now 56 years of age with a lengthy absence from the labour force and no significant work experience or marketable skills as well as functioning with acknowledged pain issues. During the marriage, she raised the children and focused on family responsibilities, and accommodated Mr. White's career obligations and needs. She functioned as his Power of Attorney, was involved in major decisions and purchases, and maintained their home and finances. During the fifteen years when he was located outside of Canada, she looked after the home front and family, allowing him to focus on work wherever it took him. I am satisfied that she is not able to achieve economic independence.
>
> …
>
> [32] I have found that Mrs. White is not able to achieve economic independence. There is no doubt Karen White has an entitlement to both compensatory support and non-compensatory support, as per *Bracklow, supra*, and *Moge, supra*.

[27] In short, there is no footing for us to intervene, based upon Ms. White's very limited ability to earn income.

De Facto Retroactive Award

[28] Mr. White fears that the judge issued a back door retroactive award when none was sought. He explains in his factum:

> 38. It is respectfully submitted that the learned Trial Judge effectively awarded retroactive support without a claim being made for retroactive support by the Respondent, and without the appropriate factors being considered.
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> …
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> 40. At paragraph 36 of the Trial Decision, the learned Trial Judge commented on Mr. White's post-separation accumulation of assets and estimated his monetary savings since separation to be between $250,000 and $304,000. The learned Trial Judge went on at paragraph 36 to state that these are savings that resulted from an unequal sharing of his income stream:
>
> > … These are savings that could be said to flow from Mrs. White not receiving an equal sharing of the income stream in circumstances where this could be contemplated: no children, no debt, and a 25-year agreement to remain out of the work force, all within a 30 year relationship ...
>
> 41. Through this comment, it appears that in setting the award for spousal support at $11,000 per month the learned Trial Judge was attempting to provide some form of retroactive support to Ms. White for this post-separation period where she was "not receiving an equal sharing of the income stream …" It is respectfully submitted that this is an error in principle, as no claim for retroactive

> support was made by the Respondent. Likewise, the learned Trial Judge did not consider each of the factors listed in *Kerr* to substantiate a claim.

[29] There is simply no basis for this submission, which can be characterized as no more than speculation. The judge at no time hinted that she disapproved of the $4,000 per month agreement entered into on September of 2015. Furthermore, it was clear that this was an interim arrangement pending her final determination. When I read this decision in its entirety, I see a judge simply trying to strike a fair figure going forward. In fact, she felt the award was on the low end. For example, she projected that (at ¶ 37) Mr. White's annual income would become "at least $350,000, although his means are likely considerably greater" and that Ms. White's compensatory claim was "not adequately addressed by this [$11,000] monthly amount".

Ms. White's Needs

[30] On this heading, Mr. White simply offers this submission in his factum:

> 42. As indicated above, Section 15.2(4) of the *Divorce Act* states that the Court shall take into consideration the means, needs and other circumstances of each spouse. In support of the Respondent's claim for spousal support, the Respondent provided the Court with an updated Statement of Expenses (November 2015), indicating monthly expenses of approximately $6,600.
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> 43. Given Mr. White's current unemployment, the learned Trial Judge erred in principle by awarding $11,000 per month in spousal support when the Respondent submitted that her expenses were substantially less than that. In fact, Ms. White's expenses – which still enabled her to maintain a very comfortable lifestyle – only account for 60% of the spousal support award. An award which Mr. White must currently pay out of his portion of the equalized matrimonial property. It is submitted that this is an award that is clearly wrong.

[31] In my respectful view, this submission is flawed in several respects. Ms. White's statement of expenses reflects an interim lifestyle change she was forced to make during the divorce proceedings. Unlike Mr. White, she had no provision for savings. The judge recognized this:

> [31] In contrast to her October 2013 monthly expenses of $13,025, Mrs. White's November 2015 statement of expenses indicates a significant lifestyle change with expenses of $6,667.29 with no provision for savings.

[32] Furthermore, this submission ignores: (a) the compensatory aspect of the award; and (b) its income tax consequences. It has no merit.

Mr. White's Means

[33] Here, Mr. White asserts that the judge's award is tantamount to double recovery in the sense that he is forced to pay spousal support from his share of the matrimonial assets. He correctly asserts that, where practical, this should be avoided. For example, Major J. in *Boston v. Boston*, 2001 SCC 43 said this in the context of a payor's pension:

> 62 The payee spouse's need and the payor spouse's ability to pay are always factors which a court considers when determining spousal support (see s. 33(9) of the *Family Law Act*). Another issue is the extent, if any, of "double recovery".
>
> 63 How is double recovery fairly avoided? (See *Shadbolt*, *supra*, *per* Czutrin J., at para. 46.) It is generally unfair to allow the payee spouse to reap the benefit of the pension both as an asset and then again as a source of income. This is particularly true where the payee spouse receives capital assets which she then retains to grow her estate. The comments of Walker, *supra*, at p. 233, bear echoing:
>
> > It is well-recognized that a borrower should not be compelled to continue monthly loan payments to the lender if the borrower has previously paid the full amount owing. "Double dipping" is analogous to such a situation and is logically and mathematically indefensible.
>
> 64 To avoid double recovery, the court should, where practicable, focus on that portion of the payor's income and assets that have not been part of the equalization or division of matrimonial assets when the payee spouse's continuing need for support is shown (see *Hutchison*, *supra*, at para. 9). In this appeal, that would include the portion of the pension that was earned following the date of separation and not included in the equalization of net family property.
>
> 65 Despite these general rules, double recovery cannot always be avoided. In certain circumstances, a pension which has previously been equalized can also be viewed as a maintenance asset. Double recovery may be permitted where the payor spouse has the ability to pay, where the payee spouse has made a reasonable effort to use the equalized assets in an income-producing way and, despite this, an economic hardship from the marriage or its breakdown persists. Double recovery may also be permitted in spousal support orders/agreements based mainly on need as opposed to compensation, which is not the case in this appeal.

[34] Here, however, we are not dealing with a payor's pension. Quite the opposite – the judge based her award on Mr. White's projected employment income. Furthermore, when the judge considered Mr. White's ability to pay while

unemployed, she concentrated on his assets acquired post separation (at ¶ 36). This is consistent with Major J.'s advice in *Boston.*

[35] I would dismiss this aspect of the appeal.

The Security Order

[36] The judge exercised her discretion to secure the award:

> [38] Under S.15.2 (1) of the *Divorce Act* a court may make an order requiring a spouse to secure and pay periodic support. Same has been requested. Maintenance shall be secured against all of Mr. White's personal and real property in Nova Scotia inclusive of the $80,000 held by Richard White for his father. I also order that Karen White remain as beneficiary on the life insurance held by Mr. White while she is in receipt of support and that Mr. White's consent allowing Mrs. White to confirm her status as beneficiary on a yearly basis be provided by this order being consented to as to form by his counsel.

[37] This led to the following clause in her Corollary Relief order:

> 6. Spousal support payments to Karen White shall be secured against all of Glenn Parker White's personal and real property in Nova Scotia, while support payments are payable, inclusive of the following:
>
> 1. The $80,000.00 being held by the parties' son, Richard White, for his father.
>
> 2. Sun Life RRSP-02760112108436.
>
> 3. BMO RRSP-6964292.
>
> 4. Land at Mountain Road, New Glasgow.

[38] Mr. White takes issue suggesting that (a) his use of the subject assets will be unnecessarily restricted and (b) in any event, the RRSPs cannot be so encumbered. There is simply not enough on the record to support either of these contentions.

[39] In short, this is a discretionary order, over which the judge enjoys significant deference. When Mr. White finds work, it will likely be out of the country. In these circumstances, it is neither unusual nor unreasonable to secure the award.

DISPOSITION

[40] I would dismiss the appeal with costs to the respondent of $3,000 plus reasonable disbursements to be agreed upon or taxed.

MacDonald, C.J.N.S.

Concurred in:

Hamilton, J.A.

Beveridge, J.A.