Neutral citation No. [2015] NICA 77

Ref:	**GIL9812**

Judgment: approved by the Court for handing down
*(subject to editorial corrections)**

Delivered:	**17/12/2015**

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

BETWEEN:

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Petitioner/respondent ;

-and-

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Respondent/appellant.

Before: Gillen LJ, Sir Paul Girvan and Sir Patrick Coghlin

GILLEN LJ (giving the judgment of the court)

Anonymity

[1] This case refers to family proceedings in the course of which one child under 18 is mentioned. Consequently it is necessary to anonymise the parties' names together with any reference made to a child under the age of 18 contained therein.

Introduction

[2] The appellant in this case, a personal litigant, appeals against a judgment of Maguire J dated 12 September 2014 in which he dismissed the appeal against Master Redpath's decision on the issue of ancillary relief between the parties dated 25 October 2012.

[3] The notice of appeal is extensive and discursive but seemed to crystallise into four grounds.

(i) Fraud and misconduct on the part of the petitioner's solicitor and counsel centring on complaints about conduct during the course of the litigation by the legal representatives of the petitioner. He also raised the conduct of the respondent as an issue.

(ii) Abuse of process including abuse of trust, abuse of position, including overwhelming implacable hostility to contact.

(iii) Contravention of the UN Declaration of Human Rights.

(iv) Procedural irregularities in the court of Master Redpath including an assertion by the appellant that the length of the hearing had been wrongfully calculated or, in the alternative, that he had not been present during the entirety of the hearing.

[4] The respondent sought an order striking out the appeal on the grounds that it disclosed no reasonable cause of action and was scandalous, frivolous or vexatious and otherwise an abuse of process. Mr Dermott Fee QC appeared on behalf of the respondent with Ms Pauley.

[5] The appellant also brought before this court the discrete issue of an appeal against the decision of O'Hara J on 25 June 2015 dealing with the "time occupied" by the hearing before Master Redpath and the presence of the appellant at that hearing. We gave our decision on this matter, affirming the decision of O'Hara J, and undertook to give our reasoning in writing which we now do at paras [56]-[66] below.

The matrimonial assets

[6] The matrimonial assets in summary are as follows.

(a) The former matrimonial home where the net proceeds of the sale of same was £62,308.

(b) A property in England which is registered in the parties joint names. Before the Master this property was valued at £125,000-£130,000 and was subject to a mortgage of £63,413 leaving equity in the region of £61,000. Maguire J noted that the value of the property may have increased but the court had no up-to-date valuation.

(c) The appellant's pension before the Master was valued at £117,317 and the respondent's pension before the Master was valued at £161,707.

The factual background

[7] The appellant was born on 14 November 1959 and the respondent was born on 1 May 1965. They were married on 4 August 1990 and before they were married they co-habited for four years. A decree nisi was granted on the petition of the respondent on 4 February 2010 on the grounds of the appellant's unreasonable behaviour.

[8] There were three children of the family at the time of the Master's decision namely one girl aged 22 and two boys aged 20 and 15 respectively. At the time of the Master's decision, the eldest child lived with the appellant and the two youngest lived with the respondent. Maguire J noted that the appellant was and is a qualified teacher.

[9] There is an extensive history of proceedings between the parties set out by the respondent in a chronology of proceedings. The chronology refers to long and costly proceedings under the Matrimonial Causes (NI) Order 1978 (divorce, ancillary relief and ancillary relief appeal) and to other proceedings (non-molestation and occupation order proceedings, contact proceedings, appeal of non-molestation orders, occupation and "no contact orders" and an application for a residence order). At the date of the hearing before the Master the wife's estimated costs were in excess of £80,000 in which the husband/appellant had already been condemned (subject to taxation) in the sum of £22,462.03 according to the wife's representatives. It is the respondent's case that the costs on which the appellant has been condemned amounted to a total of £109,159. The costs to be borne by the respondent amount to £28,541.

The Master's decision

[10] As Maguire J recorded at paragraph [5], the Master's disposition of the case was as follows:

(1) The pension situation was left alone and no order was made in this regard.

(2) Both properties were to be transferred to the respondent.

(3) He ordered a sale of the property in England. The net proceeds of the sale were to be used for the purpose of meeting the respondent's "taxed costs" which in the course of numerous proceedings had been ordered against the appellant. If anything remained following this deduction, the Master ordered it to go to the appellant.

(4) The appellant was to be condemned in respect of the costs of the ancillary relief proceedings before him.

[11] The reasoning behind the Master's decision to order the disposal in this fashion was largely governed by the following conclusions at which he arrived.

- What should have been a relatively straightforward case, was but one more stage in a long and difficult history of litigation caused largely in his view by the insulting and intimidating manner in which the appellant had conducted

various protracted proceedings in various courts mentioned in paragraph [9] above.

- The appellant had made ill-founded complaints to professional bodies about the lawyers of the wife, had openly insulted them in front of the Master, had accused them of lying and on numerous occasions written to the Master directly making similar complaints.

- As a result of the manner in which this litigation had been conducted by the appellant the wife faced "ruin as a result of these proceedings". The costs already exceeded the equity in the marital home which would have to be sold to pay these costs leaving her and the children homeless.

- It was as clear a case of litigation misconduct as the Master had ever come across in many years of listening to such applications.

- The life of the wife may have been destroyed by this litigation and his order reflected such efforts as he could make to prevent that happening. It was crystal clear to the Master that the appellant had no intention of ever paying any of the wife's costs.

[12] The Master approached the property in England invoking the Civil Jurisdiction and Judgments Act 1982 and the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters 1968 ("the 1968 Convention").

[13] Considering Articles 1 and 5(2) of the 1968 Convention and citing Vin Den Boogaard v Laumen [1997] QB 759 where these clauses were considered by the European Court of Justice, he concluded that a decision rendered in divorce proceedings ordering payment of a lump sum and transfer of ownership on certain property by one party to his or her former spouse could and should be regarded as relating to maintenance and falling within the scope of the Brussels Convention if its purpose was to ensure the former spouse's maintenance.

[14] The Master concluded that in a case with as modest assets as this, the sale of the property in England was intended for the maintenance of the wife and fell within the scope of the 1982 Act. Accordingly he transferred the title on both properties to the respondent.

[15] Concluding that the appellant had no intention of paying any of the wife's costs, and to avoid necessity for further legal proceedings in England and Wales, the Master determined that the property in England be transferred to the wife and the net proceeds of sale to be used for the purpose of meeting the wife's "taxed costs".

The decision of Maguire J

[16] In the course of a 19 page judgment on the substantive appeal, Maguire J made a number of points with which we are in agreement.

[17] First, an appeal in an ancillary relief case to the High Court from the Master is by way of rehearing.

[18] Secondly, the statutory jurisdiction for ancillary relief applications is found in Part III of the Matrimonial Causes (Northern Ireland) Order 1978 ("the 1978 Order"). Article 27 of that Order specifies the matters to which the court is required to have regard in exercising its powers when making financial provision orders and property adjustment or pension sharing orders. The learned trial judge carefully and accurately sets out those provisions in paragraph [12] of his decision and it is unnecessary for us to recite these well-known statutory provisions.

[19] Thirdly, Maguire J adverts to Article 27A(1) which provides that it is the duty of the court to consider whether it would be appropriate to exercise those powers so that the financial obligations of each party towards the other will be terminated as soon after the grant of the decree as the court considers just and reasonable. This is the "clean break" principle. Maguire J again accurately cites the now well-known guidance that the courts have offered in that regard. At paragraph [15] of his judgment he states, and we cite with approval, as follows:

> "The following points from the case law appear to be of general application:
>
> (i) There is in operation what might be described as a non-discrimination principle as between the roles performed by husband and wife. The object rather is to achieve a fair outcome as between the parties.
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> (ii) Equality of division is a useful yardstick and should only be departed from if there is a good reason for doing so. This, however, does not mean that there is a presumption in favour of equal division.
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> (iii) In seeking to achieve fairness between the parties the court will keep in mind the needs of the parties; the fact that compensation may be required to address any significant prospective economic disparity due to the manner in which the marriage was conducted; and the idea of marriage as a partnership of equals.

(iv) To a greater or lesser extent, all of the above, together with all other relevant factors, will need to be considered in the particular case the court is dealing with."

[20] The judge stated that the starting point was one of equal division but that in this case it was necessary to deviate from that starting point because whilst the appellant's allegations against the respondent "fell far short of meeting conduct that it would be inequitable to disregard her conduct or which was obvious and gross", it was necessary to take into account the appellant's approach to "relentlessly contesting matters which ought either not to have been litigated or at least not litigated at length or settled if litigation was unavoidable". This was necessary according to the Master's rationale to save the wife from financial ruin arising from participation in numerous legal proceedings.

[21] Without rehearsing the various allegations of misconduct on the part of the respondent asserted by the appellant and which are set out in paragraph [31] of the judgment of Maguire J, the judge concluded that many of the allegations raised were close to what in one case was described as "the ordinary run of fighting and quarrelling in a unhappy marriage" and that it would be wrong to make findings of fact in respect of substantial matters of individual incidents which the appellant raises. They simply were not germane to the true issues that the court had to decide and the orders that the court was called upon to adjudicate. It was far too late in the day for the myriad of issues now raised to be raised and adjudicated on in those proceedings. Many of the allegations were old and stale and several had been the subject of legal hearings and appeals, threatened prosecutions etc. The appellant in some cases could have taken legal proceedings to vindicate what he regards as breaches of his rights but had chosen not to do so. In short there was nowhere near sufficient evidence to cause the court to believe that as a result of the allegations made the appellant's life had been ruined or his relationship with his children ended or his career lost.

[22] Maguire J was of the view that a court order in earlier proceedings condemning the appellant in costs owing to the respondent was a form of obligation which the ancillary relief should ordinarily take into account for the purpose of his consideration of Article 27(2) factors. It was the financial obligation of the appellant which would impact on the respondent's finances and, therefore its existence can affect the calculations and assessment of the ancillary court. The Master had acted to take account of the costs orders in a way which enabled the wife to enforce them by taking the necessary funds out of what would otherwise be the husband's share. Provided the costs in question were costs based on a cost order made prior to his order against the appellant separate from those involved with the ancillary relief issue, it was an appropriate approach to adopt. It was well within his discretion and it was not wrong in principle or based on consideration of irrelevant matters or a failure to consider relevant matters. We agree entirely with the conclusion of

Maguire J that the Master had dealt with this matter in a manner designed to do justice and in a way that the court considered appropriate.

[23] Finally Maguire J dealt with the numerous criticisms levelled at the respondent's legal representatives by asserting that they came nowhere close to being factually established and in any event there was no reason for believing such misconduct on the part of the legal representatives would give rise to a successful appeal.

[24] Maguire J therefore concluded that there was no proper basis for interfering with the Master's costs order awarding to the respondent the costs of the ancillary relief proceedings. Such an award was within the discretion of the Master and the court could not identify anything to cause it to second guess the Master's approach. Giving due weight to the Master's conclusions, the court upheld the costs order made by him.

Principles governing cases before the Court of Appeal

[25] The principles governing the approach of an appellate court were most recently discussed in the Supreme Court in Carlyle v Royal Bank of Scotland [2015] UKSC 13 where Lord Hodge said, inter alia, as follows at paragraphs [21] and [22]:

> "21. But deciding the case as if at first instance is not the task assigned to this court …..
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> Lord Reed summarised the relevant law in para 67 of his judgment in Henderson v Foxworth Investment Limited [2014] 1 WLR 260 in these terms:
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> > 'It follows that, in the absence of some other identifiable error, such as (without attempting an exhaustive account) a material error of law, or the making of a critical finding of fact which has no basis in the evidence, or a demonstrable misunderstanding of relevant evidence, or a demonstrable failure to consider the relevant evidence, an appellate court will interfere with the findings of fact made by a trial judge only if it is satisfied that his decision cannot reasonably be explained or justified.'
>
> 22. The rationale of the legal requirement of appellate restraint on issues of fact is not just the advantages which the first instance judge has in

> assessing the credibility of witnesses. It is the first instance judge who is assigned the task of determining the facts, not the appeal court. The re-opening of all questions of fact for redetermination on appeal would expose parties to great cost and divert judicial resources for what would often be negligible benefit in terms of factual accuracy. It is likely that the judge who has heard the evidence over an extended period will have a greater familiarity with the evidence and a deeper insight in reaching conclusions of fact than an appeal court whose perception may be narrowed or even distorted by the focused challenge to particular parts of the evidence."

[26] That is particularly relevant in the instant case where there had not only been a full hearing before Master Redpath, but a full rehearing before Maguire J.

Discussion

[27] Whilst some allowances must be made for the fact that a personal litigant is neither versed in law nor court procedure, nonetheless the presence of a personal litigant cannot be permitted to distort the legal process. Grounds of appeal must be set out with clarity and a measure of precision if cases are to be dealt with in a timely and cost efficient manner. The appellant's extensive notice of appeal in this case included numerous complaints which did not relate to the ancillary relief proceedings in question and were difficult to decipher in respect of the specific grounds relevant to the appeal he was pursuing.

[28] At the hearing of this appeal, having devoted some time to explaining to the appellant the nature of the appeal process, we filtered out the following grounds of appeal.

[29] First, the appellant relied substantially upon the alleged misconduct of the respondent's barrister and solicitor throughout the lengthy process of this litigation (see paragraph [9] above) together with the misconduct of the respondent herself. In particular he asserted that the respondent's legal representatives had abused their client, exploited her and had wrongly accumulated substantial costs. The appellant seemed incapable of grasping the point that the cost orders prior to these ancillary relief proceedings had already been determined and subjected to taxation. His citation of Order 62 Rules 10 and 11 of the Rules of the Court of Judicature (NI) 1980 dealing with circumstances in which cost orders can be made against professionals referred to those earlier proceedings which had been determined in some cases years before and which he was now attempting to re-open.

[30] Similarly he wished to re-open alleged conduct by the barristers and solicitors for events prior to these ancillary relief proceedings. He seemed oblivious to the

explanations given in the lower courts as well as in this court that allegations of professional misconduct can be raised in other venues but that they had no part to play in the factual context of this case.

[31] The appellant contended that the misconduct of the respondent was such that it came within the category of "obvious and gross" and as such should have deprived her of her share of the matrimonial assets. Maguire J dealt with the conduct issue at paragraphs [27] et seq in his judgment and considered a number of factual allegations made by the appellant. The judge had the advantage of hearing and seeing the appellant making these allegations and concluded that they were simply not germane to the true issues the court had to decide. He concluded that they fell well short of meeting the description of conduct that it would be inequitable to disregard and we find no basis for error either of fact or of law in this conclusion of Maguire J.

[32] Similarly we are satisfied that the learned judge was correct to conclude that the Master's approach to the wife's legal costs arising not from the ancillary relief proceedings but from other proceedings between the parties arising out of the breakdown of the marriage was one well within his legal discretion to determine. It was not wrong in principle or law or one which was based on a consideration of irrelevant matters or a failure to consider relevant issues.

[33] Maguire J correctly asserted that the reality is that the court order of previous proceedings is a form of obligation which the ancillary relief court should ordinarily take into account for the purpose of its consideration of the Article 27(2) factors particularly paragraph (b). It is a financial obligation of the husband which will have an impact on the finance of the wife.

[34] Therefore we consider that Maguire J correctly stated "Its existence can affect the calculation and assessments of the ancillary relief court". The judge went on to ensure that there was clarity as to what costs were to be deducted and clearly set them out.

[35] The appellant asserted that there should have been a more equitable sharing of the pension arrangements and that a simple method of adding them together and then dividing by two would have resulted in him receiving a share of the respondent's pension. We find no basis to challenge the conclusion by Maguire J that the pension arrangements should remain as they were. It has to be borne in mind that the respondent had the care of a child under the age of 18 and accordingly we find no basis in fact or law to challenge the decision that Maguire J made to affirm a decision on pensions made by Master Redpath.

[36] The appellant contended that Master Redpath and thus Maguire J had no jurisdiction to deal with the property in England.

[37] We have read paragraphs [12]-[23] of the Master's decision (see paragraphs [12]-[14] of this judgment). The appellant presented no legal argument contrary to the careful analysis presented by Master Redpath and, like Maguire J, we find no error of law or of fact which would cause us to disturb the exercise of the Master's discretion and the decision of Maguire J to transfer both the property in England and in Northern Ireland to the respondent. In order to effect the transfer in England, the Master set out certain detailed steps in paragraph [25] of his decision which Maguire J saw no reason to interfere with and which we find no legal or factual error before us to determine otherwise.

[38] The appellant raised what he termed as procedural irregularities in the course of the decision of Maguire J. First, he contended that there had been excessive deference to the decision of Master Redpath. We find no foundation for such an assertion. Maguire J correctly invoked the decision of Girvan J in McRandall v McRandall [2000] NIJB 272 at paragraph [8] where the judge stated inter alia:

> "On appeal to the judge from the Master the matter comes before the court de novo. Nevertheless the judge must give due weight to the Master's decision. Particularly in a case of an appeal in matrimonial ancillary relief applications proper weight should attach to the experience of Masters who are dealing day and daily with such matters and are able to call on a reserve of expertise not available to a judge who does not regularly hear such cases."

[39] At paragraph [9] of his decision, Maguire J referred to the extensive experience of this species of litigation of this Master who had spent a considerable period of time assessing the case. We agree entirely with the views expressed by Maguire J on this topic.

[40] We found no evidence of any Contravention of the UN Declaration of Human Rights in this or any other context.

[41] A discrete issue arose during the course of the appeal concerning the hearing before Master Redpath on 3 July 2012. The contention advanced by the appellant is that the original court order made that day referred to the "time occupied" by the hearing of 10 minutes. In November 2013 the solicitor for the respondent asked the Matrimonial Office to amend the record to state that the hearing lasted one hour 25 minutes. This timing had apparently been reached by reference to junior counsel's note of a starting time at 10.30 and the solicitor's note of the finishing time at 11.55 am.

[42] On 6 January 2014 the Matrimonial Office made the requested amendment apparently without reference to the appellant who then challenged the alteration. Master Redpath dealt with the issue at a hearing on 14 February and 7 March 2014

and confirmed that the longer period was correct. During this process the Master directed the respondent's solicitor to provide her notes of July 2012 hearing but she had resisted this on the basis that they contained confidential material over and above her notes of the hearing. The Master then waived the requirement on 7 March 2014 because by that time he had traced his own notes from July 2012.

[43] When this court first sat the appellant contended that the original court record was correct and that in fact the hearing on 3 July 2012 lasted only ten minutes. If a hearing lasted for an additional 75 minutes it constituted what he termed "a secret hearing" conducted in his absence. Accordingly he contended that the outcome of any such secret hearing could not be allowed to stand and that the order of Master Redpath should be quashed on that ground alone.

[44] This court, hearing the appeal from Maguire J on 22 April 2015, decided that this matter remained extant and accordingly adjourned the hearing of the appeal midway through to facilitate an application being made to the Family Judge to hear the appeal from Master Redpath in respect of the timing issue. The court indicated that if it was determined in the respondent's favour that would resolve the issue. If it was determined in favour of the appellant, it would play very much into the question of whether there was an unfair procedure before Master Redpath which would invalidate his judgment and have a knock on effect on Maguire J's judgment.

[45] O'Hara J dealt with this issue finally on 25 June 2015. At a review hearing on 3 June 2015 he ordered that the solicitor and junior counsel for the respondent provide their notes of the July 2012 hearing and that the appellant should also provide his. The original notes of Master Redpath were copied to the parties.

[46] One of the objections that the appellant raised to O'Hara J's judgment was that the original notes made by Master Redpath, solicitor and junior counsel were only seen by him on the morning of the hearing before O'Hara J on 25 June 2015 which did not give him sufficient time to analyse the original documents notwithstanding that he had had copies of same. The appellant, having been informed by O'Hara J on 3 June 2015 that he should produce his handwritten note of the hearing with a typed transcript, stated to the judge "yes that's no problem". On the date of the hearing he denied that he had ever indicated that he had any such original note – a matter which the learned judge found to be "indisputably wrong".

[47] Prior to the hearing on 25 June 2015, the appellant made applications to adjourn the hearing on 15 June 2015 on the grounds that he needed more time to prepare the case, that an unidentified "agency" was investigating matters, that he had been prejudiced because he had been presented at the hearing for the first time with a letter from the PSNI dated 6 June 2012 and a detailed 10 paged document dated 2 July 2012 written by counsel Ms Pauley entitled "Schedule and Submissions on Behalf of Petitioner Wife". These requests were refused and we endorse that decision by O'Hara J.

[48] At the hearing on 25 June 2015, O'Hara J records that the original notes from Ms Pauley, Ms Boyle solicitor for the respondent and Master Redpath's handwritten note were all present in court together with transcripts of Ms Pauley's note and Ms Boyle's note. These were inspected by the appellant. In addition there were affidavits sworn by Ms Boyle and Ms Pauley to the effect that these were their only notes.

[49] At the hearing the appellant was offered the opportunity to cross-examine Ms Boyle on her affidavit and her notes but he declined to do so. In his judgment O'Hara J concluded that Ms Boyle's notes were an accurate record of what occurred that day and that they broadly matched those of Master Redpath but are much more detailed. Specifically they show the appellant engaging with the Master up to page 19 of page 20 of the notes. At page 20 Ms Boyle had noted "finished 11.55". The learned judge observed:

> "Her note is entirely dependable and is a timely reminder of the value and importance of solicitors and counsel taking notes at hearings."

[50] The learned judge also records that Ms Pauley's one page note was inevitably less informative because she appears to have spent most of her time questioning the appellant or making submissions.

[51] In the course of his written judgment O'Hara J also records that:

> "During exchanges with me on 25 June 2015 *[the appellant*] said that if the issue is duration, he accepted with hindsight having seen Ms Boyle's notes that the hearing must have lasted for the time suggested on behalf of the respondent."

[52] The learned judge went on to record that in light of this overwhelming evidence it was clear beyond any doubt that there was no secret or improper hearing in July 2012 – there was just one hearing which lasted for much longer than 10 minutes and which ended at 11.55 am. The appellant was fully engaged in that hearing.

[53] O'Hara J also recorded in his judgment the following matters:

- The appellant had dishonestly attempted to use the mistake in the original court order to his benefit and had untruthfully asserted at paragraph 9 of his notice of appeal that he "logged the end after approximately 10 minutes".

- That he dishonestly advanced an account of the events of 3 July 2012 in which he claimed that he understood the end of the hearing occurred because a member of court staff was at the door of the court and that he had taken this

as an indication to leave. He had tried to tie this evidence in with a letter which he had sent on 10 March 2014 in which he complained about being effectively escorted from the court and towards the exit of the RCJ at the conclusion of the hearing before the Master on 7 March 2014. The learned judge was entirely satisfied that he had no recollection of anything like that at all from 3 July 2012.

- The judge saw no distinction of any significance between Ms Pauley's description of her written submission of 2 July 2012 and her affidavit dated 19 June 2015 in which she described the document as "in essence a speaking note" albeit the judge expressed some understandable concern that a written submission was presented at the start of a hearing when it had not been shared in good time with the other side.

- Dealing with the PSNI letter of 6 June 2012, and the appellant's argument that this took him by surprise the judge found that he had suffered no injustice or unfairness with the production of that letter on 3 July 2012 albeit again he deprecated the practice of providing such information on the day of the hearing to a litigant in person.

[54] O'Hara J concluded that not only was the duration of the hearing on 3 July 2012 accurately stated by the respondent's legal representatives, but he concluded that the appellant never had any basis for asserting that the original record that the hearing lasted for 10 minutes was accurate. He further concluded that the hearing was fair even though there had been a failure in limited respects to follow best practice.

[55] In conclusion the learned judge made no order as to costs of the hearing before him, leaving that to be determined by the Court of Appeal in the full context of his appeal.

The appellant's appeal against the decision of O'Hara J

[56] In the course of a 45 page document headed "Notice of Appeal" against the decision of O'Hara J, the appellant set out a bundle of mostly evidential material most of which was totally irrelevant to the matter in hand and which repeated a litany of complaints against the respondent's legal advisors, the Master and O'Hara J which carried a resonance with the oppressive manner in which he has carried out litigation throughout this unhappy matrimonial dispute.

[57] It betrayed a complete misunderstanding of the role of the Court of Appeal as set out in Carlyle's case above. The matter before O'Hara J was entirely a matter of fact and this court is not an arena for the re-opening of all questions of fact for redetermination.

[58] We find no identifiable error of law or critical finding of fact, misunderstanding of relevant evidence or demonstrable failure to consider relevant evidence in the judgment of O'Hara J. On the contrary we consider it to be flawless in its analysis.

[59] Some illustrations will suffice to illustrate the wholly misconceived nature of this appeal against O'Hara J.

[60] First, it was an exercise in audacity that he should have persisted with the suggestion that the hearing in fact only lasted 10 minutes when the documentary evidence emanating from both the Master's notes and Ms Boyle's notes emphatically proved the contrary. When he was driven to concede this point, the appellant not uncharacteristically in these proceedings attempted to mount a different attack namely that he had not been present during the entire hearing.

[61] Secondly, in attempting to mount the second attack, he was obliged to allege that the notes made by the respondent's solicitor had been juggled, changed in sequence and were fraudulently altered. Of course despite the opportunity to cross-examine Ms Boyle about this at the hearing, he failed to do so despite being afforded the opportunity to cross-examine by the Master.

[62] Thirdly he attempted to raise a point of substance to the effect that he had not been given time to consider the original notes of the legal representatives and Master Redpath. This was a point of absolutely no substance given that there was no material difference between the copies, which he had in his possession for some time prior to the hearing and the originals. It was yet another example of where this appellant sought any port in a storm in order to prevaricate or elongate this process.

[63] Fourthly, he contended that Ms Pauley's note failed to record her assertion that the court had risen for a short time to assemble notes. That this was not mentioned in her affidavit he elevated into a point of substance. The point was completely irrelevant to the substance of the case but symptomatic of the distorted thinking that this appellant has introduced into this lengthy process.

[64] Fifthly, he contended that he had not been given sufficient time to cross-examine the legal representatives. This was self-evidently nonsense given that he had been in possession of the copies of the affidavits and notes a considerable time before the hearing.

[65] Finally, his contention that he was taken by surprise by the letter from the PSNI was disingenuous given that he was well aware of the content of the letter appreciably before the hearing and was not in any way prejudiced by its appearance.

[66] Finally, his objection to the amendment by Master Redpath of the time displayed on the order was entirely without foundation given that the error could

have been rectified by the slip rule at any time and the delay on the part of the solicitor in seeking to effect that change until November 2013 was of no consequence in the context of the case overall.

Conclusion

[67] We have no hesitation in affirming the decisions of O'Hara J and Maguire J in these matters. We invite the parties to address us on the question of costs of the hearing before O'Hara J and of both these appeals.