

Egs for Qu	Case	Relevant Facts	Inheritance issue	Court's treatment of inheritance
1.	<p>Joy v Joy [2019] EWHC 2152 (Fam) The matter came before Cohen J to be reheard following the death of Sir Peter Singer prior to giving judgment in the case.</p>	<p>Husband was 60 and the Wife 53. The parties had cohabited from 2003, married in 2006 and separated in 2011. The parties had three children age 13, 12 and 8. Divorce proceedings were protracted as a result of the Husband denying the jurisdiction of the courts of England and Wales.</p> <p>At the conclusion of the final hearing in 2015, Sir Peter Singer had adjourned the Wife's capital claims and ordered the Husband to pay periodical payments of £120,000 per annum and</p>	<p>By the time of the hearing the Wife's financial position was dire. There were very substantial arrears of maintenance, the Husband had not paid the costs order and she had significant debts.</p> <p>The Husband argued that the Wife's capital claims should be dismissed.</p> <p>He argued that there was no evidence the trust would provide him with any money, a continued adjournment offended the clean</p>	<p>Cohen J took into account that the case had to be seen against its factual background and Sir Peter Singer's previous judgments in the case. In particular:</p> <ol style="list-style-type: none"> 1. The judge found that the Husband settled a trust with a very large sum of money. 2. The Husband and his children were the sole beneficiaries of the trust until the Husband was irrevocably excluded in November 2013 after the marriage had broken down. Although the children were not currently beneficiaries they could be restored as beneficiaries and were not excluded. There were no other beneficiaries of the trust. 3. The judge found the Husband's evidence to be blatantly dishonest and designed to obscure the past, present and future. 4. The judge was confident that in some manner, and at some time which he could only surmise, the Husband would benefit again from the trust. 5. The Wife had nothing and was destitute or near to it.

		<p>£334,263 towards the Wife's costs.</p> <p>Three months after the 2015 order was finalised the Husband applied to vary the periodical payments. In a judgment dated 11 August 2017 Sir Peter Singer declined to vary the order.</p>	<p>break principle and the overriding objective and an adjournment was against the body of authority on the adjournment of claims and was contrary to the European Convention on Human Rights (ECHR).</p>	<p>6. The Husband, through the assistance of his friends, continued to enjoy a comfortable life. Cohen J noted that whilst the statutory requirement was to seek to achieve a clean break the Husband did not seek to challenge the periodical payments order and that goal was therefore unachievable.</p> <p>Although the Husband argued the Wife's capital claim could be maintained by her ability to apply to capitalise the maintenance award in the future, he was satisfied that her lump sum should not be limited to a capitalisation of a periodical payments order.</p> <p>Cohen J was satisfied that the authorities to which he was referred by the Husband did not deal with an expectation of inheritance or of a bonus or gratuity. He found that against the factual background dismissing the Wife's capital claims was a matter of last resort. He was not so pessimistic about the future ability or likelihood of the Husband receiving funds to take that step. He therefore adjourned the Wife's capital claims on the basis that they were to be dismissed unless an application to restore them was made by 31 July 2022. Cohen J ordered the Husband to provide financial disclosure to the Wife on an ongoing basis to enable her to form a view as to whether or not to restore her claim.</p>
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2.	<p>Y v Y [2012] EWHC 2063 (Fam) Baron J</p>	<p>The husband became beneficially entitled to this from his grandparents estate in 1983, one year before the marriage.</p> <p>The estate was valued for the purposes of the financial remedy proceedings at a maximum of £35,888,000 gross. The net value, after CGT and costs of sale, amounted to £22.9 million. The total rent from the properties amounted to £451,169 per annum gross.</p>	<p>Wife awarded £5.1 million for her housing needs and £300,000 furnishing costs. £150,000 per annum was the budget the judge ordered to be reasonable and £17,500 per annum per child by way of periodical payment whilst the two youngest children remained dependent. There was be an income fund for the wife of £3 million, with £293,000 for the wife's debts and £45,000 for the wife's car. The total amount awarded to the wife being £8,738,000.</p>	<p>"This amount of capital represents 32.5% share in the net assets. It leaves the Husband with 67.5% of the assets (some £18 million) which is appropriate given the origin of the wealth. The award fairly meets the Wife's needs and it encompasses any right that she has to share the assets. I so state because, although my calculation is needs based, it does involve sharing asset which will be invaded to cover the award. In this case needs and the right to sharing are essentially the same."</p>
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1.& 2	<p>HC v FW [2017] EWHC 3162 Cobb J</p>	<p>The wealth to support the parties' extravagant living derived from the husband's long-established business, and from a substantial inheritance from his own mother in 1997. The Wife accepted that the majority of the Husband's wealth was pre-acquired by virtue of an inheritance. She based her case on need and divided her needs into two categories: general need to be assessed in light of the exceptionally high standard of living during the marriage and the significant financial resources, and specific needs to cater for her medical treatment and ongoing care.</p>	<p>The wealth was predominantly pre-acquired.</p>	<p>Cobb J assessed the Wife's general needs at £298,648 pa having considered her budget, the Husband's comparative needs, the standard of living and the financial resources. On the specific care needs, Cobb J heard evidence from two care consultants: one was a single joint expert, the second was an expert instructed by the Wife. The two experts had agreed a care budget for the Wife of £250,745 pa and the Court accepted that figure.</p> <p>This was met by a total award of £ 15,251,098; this would be met from property, cash and chattels and a balancing cash payment (from the Husband's assets) of £ 3,524,607</p>
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2.	C v C (Post-Separation Accrual) [2018] EWHC 3186 (Fam), [2019] 1 FLR 939)	Post-separation accruals	Two points emerge: First, a willingness to identify non-matrimonial property and to protect it from the sharing principle, and second a flexibility as to whether a broad brush or a more arithmetical approach is appropriate in identifying what of the available assets should be shared and if so how	Wife was awarded 52% of the total available assets which were calculated by deducting £6.5m of the husband's post-separation earnings.
2.	Critchell v Critchell [2015] EWCA Civ 436, [2016] 1 FLR 400	the wife successfully set aside the order made, on the basis that its purpose was to meet the parties' financial needs,	Shortly after the order the husband's father died and he inherited an amount significant enough to change his ability to meet his financial needs.	It was no longer necessary for him to have a charge against the wife's property.

2.	AR v AR [2011] EWHC 2717 (Fam) Moylan J	The total wealth of the parties was some £21m-£24m, the source of which was almost entirely by gift or inheritance from the husband's father (who had owned a successful manufacturing business), largely during the marriage.	The wife needed resources totalling £4.3 million. Deducting her own assets of £1 million, this requires an award of £3.3 million.	An award at this level in my judgment represents a fair award under Section 25 and one which represents a just application of the principle of need. As was stated in Charman, my task is to determine "the division of property which best achieves the fair overall outcome." In my judgment, my award achieves such an outcome and gives proper weight to all the Section 25 factors.
2.	JL v SL [2015] EWHC 360. Mostyn J	Matrimonial property £ 3,584,981 [54] In my judgment there is no good reason not to divide this equally. Each party will therefore receive £1,792,491 from the matrimonial pool. In addition each party has already received £650,000 as a pension share.	The Wife received an inheritance of £465,000 shortly before the separation in July 2011.	[50] "Applying the principles set out above I have no hesitation in concluding that the wife's inheritance of £465,000 is non-matrimonial property and should be excluded from the divisible pool of matrimonial property. The fact that it had been placed in the husband's name in the circumstances mentioned in my first judgment is neither here nor there. For the reasons given in paras 17 – 21 of that judgment I am wholly satisfied that this inheritance is non-matrimonial property."

<p>3.</p>	<p>HRH Louis Prince of Luxembourg v HRH Tessy Princess of Luxembourg and Anor (Application for Financial Remedy) [2018] EWFC 77</p>	<p>W contended that H had a prospect of substantial inheritance. He had already received €510,750 and he conceded that there had been mention of further inheritance monies, potentially €1M, being paid to him and his siblings if affordable but with no definite timescale.</p>	<p>H's position was that this future inheritance was a possibility not a firm expectation. W's position was that it was much more than a possibility but she accepted no timeline regarding payment had been discussed.</p> <p>She maintained that the husband would be in a position to ask his parents for an increase in his allowance or an advance in his inheritance to enable him to meet any obligations imposed upon him by the court. Further, the wife contended that</p>	<p>MacDonald J was satisfied that the future inheritance was not sufficiently certain to regard this as a financial resource. H might receive further funds by way of inheritance, but it was not possible to say with certainty when he would do so or be sufficiently certain of the amount of any further payment.</p> <p>The Court determined that the husband's future inheritance prospects were not sufficiently certain to be regarded as a financial resource falling for distribution in the proceedings;</p> <p>“(c) Inheritance 121. I am likewise satisfied on the evidence before the court that the husband's prospect of a future inheritance is not sufficiently certain to enable the court to regard the same as a financial resource falling for distribution in these proceedings. It may well be that the husband will in due course receive further funds by way of inheritance. However, on the evidence currently before the court it is not possible, as the wife concedes, to say with sufficient certainty when he will do so. Nor is it possible on the evidence before the court to be sufficiently certain of the amount of any further payment to be made. In the circumstances, the husband's future inheritance prospects are simply not a sufficiently certain foundation upon which to rest an award to the wife.”</p>
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3 & 4	<p>Alireza v Radwan & Ors [2017] EWCA Civ 1545</p>	<p>“6. Both families are, by any ordinary standards, extremely wealthy...”</p> <p>8. The husband's father died intestate on 24 November 1991, although in 1989 he had set out his testamentary intentions in a formal letter of wishes.</p> <p>9. Following the death of his father, under Sharia law the husband was entitled to 58.33% of his father's estate. The husband however, in accordance with his father's wishes, agreed to forego his entitlement and instead the family arranged its affairs on the basis of the joint or collective ownership of all the family property ("the</p>	<p>All the money in the case had been inherited and the appropriate order would be one which met the financial needs of the wife. The wife was likely to be a multi-millionaire in her own right upon the death of her father and that, in contrast to the husband, who was tied into the family arrangement, when her inheritance falls in the wife will have unrestricted access to, and control over, the wealth she stands to inherit.</p> <p>53. It was agreed ..that under the forced heirship laws</p>	<p>The Court held that the wife's prospective inheritance was undoubtedly a resource, albeit not for 16+ years according to actuarial tables. The Court of Appeal held that one appropriate way of taking this factor into account would have been to reject the "dual purpose" argument (i.e. by ordering a smaller lump sum than the wife sought), but the prospective inheritance did not justify the order at first instance.</p> <p>On a proper analysis, the Husband had total assets of £15.06 million, of which £5.98 million was realisable from the arrangement he had with his family in relation to his father's inheritance ("the family arrangement"). The Court of Appeal held that this arrangement had liquid assets which would comfortably allow for the purchase of a property for the wife without impacting on the Husband's mother and sister's interest in the arrangement.</p> <p>The Court of Appeal held –</p> <p>101. In my judgment, when not only the family arrangement and the wife's inheritance expectations, but also the additional features highlighted above are put into the equation, the fallacy of the submission that 'the wife only needs a roof over her head until the father dies' is exposed. It cannot be said that the needs of the wife and</p>
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		<p>family arrangement"), continuing to use Hosamco (an offshore limited company) as an acquisition vehicle.</p> <p>18. At trial it was accepted by H that his share of assets inherited on the death of his father amounted to £8m and not £1.75m. In fact, as the judge subsequently held, the husband's beneficially owned assets were substantially more than £8m. The Wife appealed the lump sum she was awarded</p>	<p>of Saudi Arabia, the wife's inheritance rights are both unassailable and infeasible... the husband estimated the wife's father's wealth at approximately £500 million. He further suggested that under the terms of Saudi law (which it was agreed applies to the wife's father's estate) she would receive approximately 20% of the estate upon her father's death. She could therefore expect, the husband speculated, to come into an inheritance of approximately £100 million.</p>	<p>the children will be met by them continuing to live in a three bedroom flat, owned by the husband's family, and subject to draconian terms in the event that she wishes to move, especially if one takes into account the lack of personal security for the wife in the event that she remarries and the absence of recognition of her contribution to the welfare of the family.</p> <p>102. Standing back for a moment, it is hard to see how, in a situation where a husband has assets (albeit inherited) of between £14 - £17m together with an earning capacity of £350,000 pa, it can be right to conclude that his wife of 14 years, with no earning capacity and three children to care for (one of whom has special needs) should be denied a capital settlement sufficient to allow her to buy a property outright in her own name.</p> <p>The Court remitted the matter for reconsideration of the appropriate lump sum to be paid to the wife in addition to the agreed £2 million.</p>
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