***T v T* [2025] EWFC 395 (B)**

This judgment related to financial remedy proceedings between a wife and a husband. The husband was a farmer who farmed in partnership with his father. The particular issue that arose was which assets used in the partnership were partnership property, since the husband's share of such property would fall into his personal assets for the purposes of the financial division with the wife.

The court reviewed at length the authorities on the issue of partnership property (including ss20 and 24 of the Partnership Act 1890, Chs 17 and 18 of *Lindley & Banks on Partnership*, and the cases of *Ham v Bell* [2016] EWHC 1791 Ch, *Wild v Wild* [2018] EWHC 2197 Ch, *Geary v Rankine* [2012] 2 FLR 1409, *Robinson v Ashton* (1875) LR 20 Eq 25 and *Popat v Shonchhatra* [1997[1WLR 1367). These indicated that the the key issue for the court to ascertain was the parties' subjective intention, agreement and understanding.

It concluded that there was a clear agreement, intention and understanding between the husband and his father that the farmhouse, land and buildings were not partnership assets. It also held this was clearly and plainly understood by the wife.

The mere fact that assets were described in the partnership accounts or tax returns as tangible or fixed assets was not determinative of the issue of whether the assets were partnership property. The disputed assets were expressly identified in the accounts as being part of the father's capital account, whereas the accounts clearly showed that the assets of the partnership were expressly shared between the partners and recorded in their current accounts.

The court rejected the argument that any profit or surplus value of the assets recorded in the father's capital account, due to the inflation in land and property prices, would have become a partnership asset. On the contrary, it would solely lead to an increase in the father's capital account.

The court also noted that the fact that the land and buildings (though not the farmhouse) were used by the partnership did not make them partnership property.

The court concluded that the husband had a share of the other assets, including the barn that had been bought with partnership funds.

***Aquapoint LP (in Official Liquidation) v Xiaohu Fan (Cayman Islands)* [2025] UKPC 56**

Although this appeal to the Privy Council relates to Cayman Islands' Exempted Limited Partnership Act (the ELP Act), a number of aspects may be of interest in relation to UK partnership law.

Aquapoint was an exempted limited partnership (ELP) established hold shares in a corporation formed by the general partner of Aquapoint. Fan was one of its limited partners. The trial judge accepted Fan's allegation that, in order to induce him to become a limited partner, the general partner had given him assurances that he would be able to

withdraw his shareholding in the corporation after a specified time, and this was not challenged on appeal.

However, the general partner had prevented Fan from withdrawing his shareholding, by refusing its consent to the withdrawal. Fan claimed that, given the prior assurances, this refusal made it just and equitable for the court to wind up Aquapoint. Aquapoint argued that its refusal was a legitimate exercise of its powers under the partnership agreement. The trial judge accepted Fan's case and ordered the winding up. The Court of Appeal dismissed Aquapoint's appeal.

The Privy Council also dismissed the appeal. Although the partnership agreement required the consent of the general partner to withdrawal from the partnership, and this could be withheld for any reason (or no reason), s19 of the ELP Act imposed a duty of good faith on a general partner and, subject to contrary agreement, a duty to act in the interests of the ELP. The partnership agreement here did not provide express contrary agreement.

The Privy Council rejected Aquapoint's argument that where there was a relevant contractual provision, there was no room for the imposition of equitable considerations under *Ebrahimi v Westbourne Galleries Ltd* ([1973] AC 360) and *O'Neill v Philips* ([1999] 1 WLR 1092). The existence of an 'entire agreement' clause here was relevant to whether equitable principles applied, but was not decisive, and it could be correct to conclude that the negotiation of a specific agreement did not exclude equitable considerations. The Privy Council noted that equitable considerations as regards the exercise of legal rights would not generally apply in a corporate context. However, it emphasised that whether they did apply and the relevance of contractual arrangements between the parties, were to be decided on the facts and circumstances of the case. The critical fact here was that the contractual arrangements were entered into on the basis of the assurances given that Fan's entitlement to withdraw his shareholding would not be affected by the agreement. The admission of new partners without knowledge of these assurances would have been a relevant factor, though not always decisive (*In re Edwardian Group Ltd* [2018] EWHC 1715, commenting on *Fisher v Cadman* [2005] EWHC 377 (Ch)), but no new partners had been admitted after the partnership agreement had been concluded.

The Privy Council also rejected the argument that the imposition of equitable principles under *Ebrahimi* only applied where there was a 'quasi-partnership'; Lord Wilberforce in that case had clearly given the indicia of a quasi-partnership only as examples of the circumstances in which equitable considerations would be applied. The fundamental principle applied in that case was that the court's power to order winding up on the just and equitable ground enabled it to subject the exercise of legal rights to considerations of a personal character arising between individuals. The fact that here there was no quasi-partnership was therefore no bar to winding up on the just and equitable ground.

***Pervaz and another v Pervaz and others* [2025] EWHC 3405 (Ch)**

This case involved a long-running dispute about a family partnership which was dissolved in 2016. Of the many issues raised, the following are of most interest.

First, the court held that the farm registered in the name of one of the partners was partnership property. Section 20(1) of the Partnership Act 1890 defined partnership property, inter alia, as property 'brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business'. Although the source of the purchase money was disputed, the farm was used in the partnership business and included in the partnership accounts. It had been contributed as the partner's capital, which would be very unusual if he had paid for it privately. There was no evidence that the partners agreed that it should be treated as the partner's own or that it should no longer be held on trust for the partnership.

Second, one of the partners had been a nominee partner only, taking no drawings and not being involved in management or decision-making, and her involvement could have been determined at any stage by her husband for whom she was nominee. She could therefore not have objected to the transfer of her share to another family member by her husband, or dissolved the partnership, because she did not have and was never intended to have such rights (see *Ward v Newalls* [1998] 1 WLR 1722).

Elspeth Berry
Reader in Law, Nottingham Law School,
Nottingham Trent University
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