

# Supreme Court hears cases on issues arising from the non-disclosure of assets

The Supreme Court is this week hearing the combined appeals on two cases concerning the non-disclosure of assets in financial proceedings.

The first case of Sharland concerns a wife whose application for a financial order resulted in her and her husband both giving evidence in the High Court. During the course of the final hearing the case was settled by agreement. However, shortly after the agreement was reached (and before the court order was sealed by the court) the wife discovered that the husband was holding discussions with various bankers as part of an active preparation for an initial public offering (IPO) of a company in which he was a two thirds shareholder. The Wife urgently applied to the court and asked them not to seal the order and resume the case on the basis that the agreement had been obtained by fraudulent non-disclosure. Her application was dismissed by the Judge and the Court of Appeal.

The Wife applied to the Supreme Court who will consider:

1. What is the impact of fraud on:-

- an agreement to compromise ancillary relief proceedings; and/or
- a consent order made following such agreement?
- Is it different from, or the same as, it would be in other civil proceedings?

2. In proceedings for ancillary relief, does fraud give rise to separate remedies to those available in other instances of non-disclosure?

3. Where either fraud and/or material non-disclosure is established, does the refusal by the court to rescind the order (and so reinstate the trial process) wrongly derogate from the victim's right to a fair trial?

In the second case of Gohil the Supreme Court will consider the correct approach to a party's application to set aside a consent order made in financial proceedings where there has been material non-disclosure by the other party.

In this case the parties reached agreement at a financial dispute resolution hearing in 2004 which was recorded in an order which recorded within it the wife's continuing reservations about the husband's disclosure. It subsequently came to light that the husband has been involved in fraud and money laundering estimated at £37 million for which he was subsequently convicted and sentenced to ten years imprisonment.

The Wife issued an application to set the consent order reached in 2004 aside on the basis of alleged serious material non-disclosure, fraud and misrepresentation by the husband. The application took a number of years to be determined, complicated by issues arising in respect of the criminal proceedings.

In the High Court permission was given for a limited aspect of the original order to be set aside, to which the Husband appealed to the Court of Appeal. The Husband's appeal was successful, but this decision has been appealed by the Wife.

For information about setting aside consent orders please click here <sup>[2]</sup>.

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