

ANALYSIS

DEPARTURE POINTS:

(1) Was there pre-marital wealth?

36. H asserts he was wealthy before his marriage to W in 1993. H's bare assertion has, however, not been supported either by any schedule of the value of his pre-marital assets or any documentary or independent evidence. The only figure H has provided is that in 1993 he paid £700,000 for the first matrimonial home in London. However, even if this is correct (and assuming no mortgage), the matrimonial home occupies a unique position and would be subsumed into this long marriage (*c.f.* Lord Nicholls in *Miller v. Miller* at [24]).
37. It is axiomatic that if a party is going to assert pre-marital assets, it is incumbent on them to prove the same by clear documentary evidence (*per* Mostyn J in *N v F* [2011] 2 FLR 533 at [24]). H has failed to do this and, accordingly, failed to prove any case on pre-marital assets.

(2) When did the parties separate?

38. W contends the marriage lasted 20 years and only broke down in October 2013 (when she issued her divorce petition), and it was only after a failed attempted reconciliation in summer 2014 that the marriage finally ended in late 2014.
39. H, on the other hand, contends that the marriage ended in 1999, or at latest, in 2004. H says in his Form E that any sharing claim by W “*should be based on wealth generated at the latest up to 2004 but not thereafter*”. The significance of this issue is that it goes to whether the vast sum realised from the sale of H's Russian company shares in November 2012 (US\$1.375 million) is to be included in the marital assets.

1999/2003 hiatus

40. The marriage clearly went through a rocky patch between 1999 and 2003. H states that the marriage broke down in 1999 when he discovered that W was having an affair with a younger man. H was angry and matters were clearly not right between them. W issued a divorce petition in London in 2003. H applied to strike out W's petition on the grounds that the marriage had already been dissolved by a Russian decree granted in the Moscow court on 18th August 2000. H produced ‘official’ Russian court documents to this effect. However, a search by W's lawyers of the official records in the Moscow court revealed that no such divorce proceedings existed. This was recently confirmed for these proceedings in a Civil Evidence Act notice statement of a Moscow lawyer, served by W in support of her financial claim. This statement was not challenged by H's leading counsel at the PTR on 25th October 2016. The inference to be drawn, therefore, is that the 2000 Moscow divorce documents relied upon by H were, at all material times, forged.
41. Shortly after this unfortunate episode, however, there was a reconciliation between H and W. On 4th July 2006, H's previous solicitors, signed a consent application to dismiss W's petition which recorded “*the parties having been reconciled*”. On 8th June