UNIVERSITY OF YAOUNDE II
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COMPLETE LECTURE NOTES

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CHAPTER 1:

PROPERTY RIGHTS OF SPOUSES IN THE

A - Ownership of Property

The law on this issue is encapsulated in Section 17 of the Married Women's Property Act (1882) which provides that:

> *In any question between husband and wife as to the title to or possession of property, either of them may apply for an order to the High Court or to a Country Court and the judge may make such order with respect to the property in dispute … as he thinks fit.*

To achieve this objective, the court has been given certain discretionary powers. The judge is however obliged to respect the interests of the parties and nothing more. And this is so because the court has no power to vary existing titles to property between spouses. In the popular dictum of **Romer L. J.** in *Cobb v. Cobb*[1].

> *I know of no power that the court has under section 17 to vary agreed or established titles to property. It has power to ascertain the respective rights of the husband and wife to disputed property and frequently has to do so on very little managerial, but whereas here, the original rights to property are established by evidence and those rights have not been varied by subsequent agreements, the court cannot in my opinion under section 17 vary those rights merely because it thinks that in the light of subsequent events, the original agreement was unfair.*

It is true that it had once been contended that the court's jurisdiction under section 17 is entirely discretionary. But this is not the view today. In any case, in exceptional circumstances discretionary[2] power exists when the court ordains that property be sold and dictates the manner in which the proceeds are to be divided or when the court orders one of the spouses to transfer his or her share to the other, on the latter's paying the value of the property transferred.

On further examination of Section 17 of the Married Women's Property Act 1882, two difficulties stand out. The first one rests on the fact that the section will only apply when the property in question is still in existence. If s in *Teh v. Teh*[3] and *Atem v. Atem*[4] there never was any available property the court will not make any order. The court will also refuse to make an order if it is not prayed for. So in *Shu v. Shu*[5] where the petitioner was silent on this point

[1](1995) 2 All E.R. 697 at p. 700
[2]This was lord Denning's position in *Hine v. Hine* (1962) All E. R. 345; but it was not accepted by the House of Lords in *National Provincial Bank Ltd. v. Ainswroth (*1965) 2 All E. R. 472.
[3]Suit No. HCB/37/MC/82 (unreported)
[4]Suit No. HCSW/77/MC/82 (unreported)
[5]Suit No. HCB/16/85 (unreported)

and in *Elad v. Elad*[6] where the petitioner later abandoned her prayer on property adjustment, the court abstained from making any order.

A big problem could arise when one of the parties is the cause of the disappearance of the property in question. Would the other party be left to suffer simply because section 17 would not apply to non-existent property? Applying the section strictly, that spouse will have no remedy. In any case, today the problem has been solved by the **Matrimonial Causes (Property and Maintenance) Act 1958**[7]. In this **Section 7 (7),** it is provided that under such circumstances, the court may order the guilty spouse to pay to the plaintiff such sums of money as represents the latter's interests in the property or fund. Or, if there is no other property which now represents the whole or part of the original, the court could make an order on it. In *Teh v. Teh*[8] the wife contended that she had given the husband two loans of 100.000francs and 50.000francs respectively. If she had claimed these sums, her action would have failed because Section 17 does not apply to proceedings for the recovery of a debt.[9]

The second difficulty results from the fact that section 17 concerns husbands and wives, thus implying that when the marriage has broken down and a decree of divorce is granted, an application cannot be made under it. This oddity has been rectified by the **Matrimonial Proceedings and Property Act t1970** whereby it is stipulated in its section 39 that:

> *An application may be made to the High Court under Section 17 of the Married Women's Property Act 1882 (powers of the court in disputes between husband and wife about property (including that section as extended by section 7 of the Matrimonial Causes (Property and Maintenance) Act 1958) by either of the parties to the marriage notwithstanding that their marriage has been dissolved or annulled so long as the application is made within the period of three years beginning with the time the marriage was dissolved or annulled; and references in the said section 17 and the said section 7 to a husband or wife shall be construed accordingly.*

It will now be helpful to look at the various types of property concerned.

1 - Housing Allowances

Although the practice had once been that housekeeping allowances were almost always provided exclusively by the husband, today many women also go out to work. Indeed section 74 (1) of the **1981 Civil Status Registration Ordinance[10] (as amended in 2011[11])** provides that a married woman may exercise a trade different from that of her husband. The husband may object to the wife going out to work only if the interest of the marriage or their children

[6]Suit No. HCSW/3MC.85 (unreported)
[7]S. 7(7)
[8]Supra
[9]*Tunstall v. Tunstall* (1973) 2 ll E. R. 310
[10] Ordinance No. 81-02 of 29 June 1981 on the Organisation of the Civil Status Registration and Provisions relating to the Status of Physical Persons.
[11] Law No. 2011 / 011 of May 6, 2011 Amending and Completing certain Provisions of Ordinance No. 81-02 of 29 June 1981

is jeopardised.[12] The Ordinance goes on to stipulate expressly that a woman exercising a separate trade or possessing a personal income may, at the request of the husband, be obliged to contribute to the cost of running the home.[13] This simply means that in Cameroon both spouses may find themselves providing housekeeping allowances for the family.

In any case the common law position was that if a husband supplied his wife with housekeeping allowances out of his income, any balance or property bought with it remained his property.[14] But this position has been hotly castigated on the principle that it does not compensate a wife who as a result of her economy and skill has been able to bring back any balance from the allowances given to her.[15] It was as a result of such persistent opposition that statutory intervention stepped in. thus by the provision of section 1 of the **Married Women's Property Act 1964.**

> *If any question arises as to the right of a husband or wife to any money derived from any allowance made by the husband for the expenses of the matrimonial home or for similar purposes, or to any property acquired out of such money, the money or property shall, in the absence of any agreement between them to the contrary be treated as belonging to the husband and wife in equal shares.*

The section will not apply if the parties had already come to an agreement as to any balance or property bought from such an allowance. Again it applies only in cases where the allowance is provided by the husband. Should the reverse happen, it would be sound reasoning to conclude that the balance or property would belong to the wife, especially as the 1981 Ordinance is silent on the issue.

2 - Income

Where both spouses go out to work their incomes belong to them individually. No one spouse has a right over the income of the other spouse. And any property bought by one spouse with his or her income belongs to him or her. So in *Moussi v. Moussi*[16] the court had to examine documents signed by the husband and wife concerning certain movable property. At the close of the case, the court, in granting a decree of divorce ordered that the items of movable property bought by the wife but still in the custody of the husband in the matrimonial home be handed over to her.

The 1981 Ordinance permits a married woman who works to open a separate bank account in her own name and make deposits or withdrawals as she sees fit. So, any property bought with money drawn from this account belongs to her. Hence, in *Enie v. Enie*[17] the court refrained from making an order concerning the separate accounts opened by the two spouses. Should it happen that the husband opens an account in the wife's name the presumption will be that the

[12]S, 74 (2)
[13]S. 75 (1); and S. 76 (5)
[14]See the English case of *Blackwell v. Blackwell* (1973) All E. R. 597 C. A and *Hoddinott v. Hoddinott* (1949) 2 K.B. 406 C.A
[15]See the dissenting judgment of Lord Denning in *Hoddinott v. Hodidinott Supra*
[16]Suit No. HCF/115MC/87 (unreported)
[17]Suit No. HCSW/5MC/83 (unreported)

money in the account belongs to her. In *Body Lawson v Body Lawson*[18], the husband had problems with his eyes and the couple decided to proceed to England to enable the husband consult a doctor. On this trip the wife was very kind and loving. And in appreciation the husband opened an account at Barclay's Bank London for his wife, with the sum of £100. A few years later £20.000 due to the wife on an insurance policy she had taken out in England was paid into that account. On divorce, it was held that the husband could not lay claim to the money in the wife's bank account in London.

The problem only arises where the spouses decided to open a joint bank account. In the event of a breakdown of the marriage, the question could turn on ownership of the savings in the said joint account. In the absence of local cases on this point reference will be made to the relevant English decisions. The first point to be made here is that it is an acknowledged principle that in such a case the balance in the account will be shared between the two spouses in equal shares. This was the solution adopted *Jones v. Maynard.*[19] Here, the husband who was about to go on service overseas in 1941, authorised his wife to draw on his account. Thereafter the bank was operated as a joint account in the sense that each spouse drew on it for his or her requirements and each paid in earnings and income. .the husband whose payments were undoubtedly much larger, occasionally drew money to pay for investments which were placed in his name. The parties were never made any clear agreements as to their respective rights in the account. In the end, the wife left the husband and he shortly afterwards closed the account and drew out the balance. A decree of divorce was pronounced in 1948 and the wife immediately sued to recover half of the balance of the account on the day it was closed and also half of the value of the investment. It was held that her demand would be granted.

It does not therefore matter that the husband's contributions are by far larger than the wife's. In any case if the husband can prove that the joint account was opened mainly for his convenience, especially if his health is poor or he travels regularly, then the court may hesitate to award the wife half the balance. It would be taken that the joint account was not intended to be provision for the wife, but simply a convenient mode of managing the husband's affairs. In *Marshall v. Cruttwell*[20] the husband was in poor health and so transferred his banking account from his name into the joint names of himself and his wife. He directed his bankers to honour cheques drawn either by himself or his wife. He afterwards paid in several considerable sums to his account. All cheques were subsequently drawn by the wife at the direction of the husband and the proceeds were applied in the payment of the household and other expenses. The husband never explained to the wife what his intentions were in so transferring the account, but he was stated by the Bank Manager to have remarked at the time of the transfer that the balance of account would belong to the survivor of himself and the wife. The husband died a few months after the transfer and the wife claimed the balance outstanding to the credit of the account on the date of his death. It was held that she would not succeed.[21]

[18]Suit No. HCF/128MC/86 (unreported)
[19](1751) 1 All E. R. 802
[20](1875), L. R. 20 Eg. 328
[21]Compare Re Figgis (1968), I All E. R. 999

Looking at the principle of dividing the balance in equal shares as seen in *Jones v. Maynard*[22] a difficulty could arise where the spouses open a joint account and only one party contributes to it. Certain presumptions have been drawn to such an instance. If the husband is the sole contributor the presumption of advancement will operate to give her an interest as was the case in *Re Figgis*[23], on the other hand if the wife is the sole contributor she will take the whole beneficial interest.[24]

It should however be recalled that when a joint account is opened property bought a spouse with money withdrawn from that account belongs to that spouse exclusively. And this is especially so where the spouse buys personal effects. This conclusion may not be arrived at if it concerns investments. Where investments are carried out in such a way as to lead to the inference that they still represent the original fund, then both spouses would have an interest.[25]

3 - Gifts

Gifts are usually made to spouses on their wedding day. A difficulty may arise as to ownership of these gifts in the event of a subsequent breakdown of the marriage. It has been held that wedding presents would be divided between the parties in equal shares.[26] A problem could stem from gifts made by one spouse to the other spouse. It will be important to find out if the donor really intended that property in the gift should pass to the other spouse. It may not be easy to infer such an intention if the gift is such that it would be used by both spouses jointly in the matrimonial home. Although exceptions can be traced in the books, courts hesitate to find such an intention if it will result in compromising the rights of creditors. [27]

B - Who owns The Matrimonial Home

The matrimonial home is usually the primary asset of the family. This explains why cases brought under section 17 of the Married Women's Property Act 1882 almost always turn on the matrimonial home. Only occasionally would you come across cases of ownership of the family car or a fleet of vehicles,[28] and those centred on parcels of land acquired during the marriage.[29] So the arguments which would be raised in the course of this section could equally hold true for other types of family property.

It should be immediately pointed out that English law knows no community of property[30] and that to establish an interest in property the legal title of which is vested in the other spouse

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[22] Supra
[23]*(1968) 1 All. E. R. 999*
[24]*Heseltine v. Heseltine (1971) 1 All E. R. 952*
[25]Cf. *Re Bishop* (1965) 1 All E. R. 249
[26]*Kelner v. Kelner*(1939) 3 All E. R. 597; However if it can be proved that the gift was made to an individual spouse the court would not hesitate to make such an order.
[27]In the English case of *Re Cole* (1963) 3 All E. R. 433 C. A., a husband showed the wife a house he had furnished and declared "look, it is all yours." The court refused to hold that he made a gift to her. See S. 10 of the Married Women's Property Act 1882 which is to the effect that a gift made by the husband to his wife may be avoided by his creditors, if the property contributes to be "if the order and disposition or reputed ownership of the husband… it would appear that his section would not apply to goods in the matrimonial home. *See French v. Gething*(1922) 1 K. B. 236 C.A
[28]*Enic v. Enic*Suit No. HCSW/65MC/83 (unreported)
[29]*Achu v. Achu*Appeal No. BCA/62/86 (Unreported); *Elad v. Elad,* Suit No. HCSW/31MC/85 (unreported)
[30]*Pettitt v. Pettitt.*(1969) 2 All E. R. 385

you must prove that such a legal owner holds the property on trust for you.[31] The implication of these two principles is that when a spouse buys property with money provided from his personal savings, such property belongs to him exclusively. So where a husband saves money in a bank from which he later buys the matrimonial home, the whole beneficial interest will be vested in him.[32] And in this connection the best available evidence is the conveyance deed. The court will always hesitate to go behind title and confer an interest to a spouse whose name is not stated in the title deed.[33]In *Body Lawson v. Body Lawson.*[34]The High Court in Buea held that each spouse should continue to have ownership of property purchased in their respective names. Where the names of the two spouses appear on the title deed effect will normally be given to their joint interest.

But it may happen that a wife, for example, could have an equitable interest in the property purchased by the husband, although her name does not appear on the title deed. In this event, the court would attempt to find out the intention of the parties at the time the property was bought. It may also be useful to know whether or not the parties had made any agreement. It does not really matter that such agreement was not in writing. This is so because it has been argued that it could be unreasonably legalistic to treat the relevant transaction as restricted only to the actual conveyance, provided justice would be achieved the court would impose a constructive trust. The creation of such a trust could arise, simply from all the circumstances surrounding the case. For example, that the husband had intended that they should have a joint interest, or that the wife had made some contributions to the family budget or to the acquisition of the property in question.[35] And here the wife would be put to the strictest of all tests. Such trust would not be implied if the wife's allegations are vague and flimsy. This was so in *Nguitedem Etienne v. Tashi Lydia Sinaga.*[36]The respondent alleged that she had contributed 100.000francs CFA in the purchase of a plot in Nkwen, although she conceded on cross-examination that she was not present when the plot was brought. She also asserted that she had contributed monthly towards the buildings of two houses. One was completed and the other was close to completion. She did not say, how much she had contributed. In discussing the vagueness of the respondent's allegations. Justice Inglis declared that:

> *… In this instant case, it is inconceivable on the evidence that during the subsistence of the marriage that the respondent could have contributed anything towards the acquisition of the plot and the building of the houses. The marriage started going on the rocks three months after it had been contracted. In the prevailing hostile atmosphere it is inconceivable that both parties should sit down together and work out ways and means of building a matrimonial home and committing themselves to that task.*
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> *Secondly, the respondent had not tendered any independent evidence rather any evidence whatever to support her claim that she had*

[31]*Gissing . Gissing* (1971) A. C. 886 H.C
[32]Ire Sims Question (1946) 2 All E. R. 138.
[33]*Leake v. Bruzzi* (1974) 2 All E. R. 1196
[34]Suit No. HCF/128MC/86 (unreported)
[35]*Cook v. Head* (1972) 1 W. L. R. 518
[36]Appeal No. BCA/46/86 (unreported)

contributed anything direct or indirect, towards the acquisition of the plot and the building of the houses.

It could even happen that both spouses contributed to the purchase of the house although it is conveyed in the name of only one of them. The view has been taken that:

Where a matrimonial home has been purchased outright without the aid of an advance or mortgage it is difficult to ascertain what part if any, of the purchase price has been provided by each spouse. If the land is conveyed into the name of a spouse who has not provided a whole of the purchase price, the sum contributed by the other spouse may be explicable as having been intended by both of them either as a gift or as a loan of the money to the spouse to whom the land is conveyed or as consideration for a share in the beneficial interest in the land. In a dispute between living spouses the evidence will probably point to one of these explanations as being more probable than the others, but if the rest of the evidence is neutral the prim facie inference is that their common intention was that the contributing spouse should acquire a share in the beneficial interest in the land in the same proportion as the sum contributed bore to the total purchase price. [37]

Before *Gissing v. Gissing* was decided the courts took the view that the maxim 'equality is equity' would apply if it could be inferred that there was no intention on the part of the spouses that each should have an interest equal to his contribution.[38]

But the House of Lords did elucidate on the dangers of the inadvertent use of the doctrine that 'equality is equity'. This note of warning was heeded to and re-echoed by Lord Denning in two different dicta. In *Falconer v. Falconer*[39]he said that:

The law imputes to husband and wife an intention to create a trust, the one for the other. It does so by way of an inference from their conduct and the surrounding circumstances, even though the parties themselves made an agreement on it. This inference of a trust, the one for the other is readily drawn when each has made a financial contribution to the purchase price or to the mortgage instalments. The financial contribution may be direct, as where it is actually stated to a contribution towards price of instalments. It may be indirect, as where both go out to work, and on pays the housekeeping and the other the mortgage instalments. It does not matter which way round it is. So long as there is a substantial financial contribution to the family expenses, it raises the inference of a trust. But where it is insubstantial, no such inference can be drawn. The House of Lords did, however, sound a note of warning about proportions. It is not in every case that the parties hold in equal shares. Regard must be had to their respective

[37]Lord Diplock in *Gissing v. Gissing (1971) A.C. 886 H.C*
[38]*Rimmer v. Rimmer*(1955) 2 All E. R. 863; *Fribance v. Fribance*(1957) 1 All E. R. 357; *Allen v. Allen (*1961) 3 All E. E. 385; *Wilson v. Wilson (*1963) 2 All E. R. 447
[39] (1970) 3 All E. R. 449

contributions. This confirms the practice of this court. In quite a few cases, we have not given half-and-half but something different.

Again in *Heseltine v. Heseltine*[40] he observed that:

This is a typical case where the matrimonial home was acquired by the joint resources of each, but was taken in the name of one. i.e., the husband. In the usual way the court imputes a trust under which the husband is to hold if for them jointly in equal shares. But half-and-half is not an invariable division. If some other division is more fail, the court will adopt it.

Even before *Gissing v. Gissing* the court had once held that where a wife contributed 10 per cent of the purchase price of the matrimonial home, the court related her interest in the home proportionate to the size of her contribution. This was so because the spouses knew at the outset that 10 percent was her sole contribution to the acquisition of the property.[41]

A more difficult problem sets in when one spouse contends that he had provided the whole of the purchase price but that the home had been conveyed in the name of the non-contributing spouse. Here too, two presumptions can be drawn. A husband who purchases property in the name of his wife is deemed to have intended a gift to her. This is in application of the equitable doctrine of advancement. This presumption is however rebuttable if the husband can prove that it was a mere convenient measure adopted by the two parties which had nothing to do with the making of a gift.[42]But if the purchase price is provided by the wife and it is conveyed in the name of the husband, he would, in the absence of any agreement between the spouses, hold the property on trust for her. This presumption could also be displaced if he can prove that she intended a gift. The court would refuse to admit evidence which only turns to show a fraudulent motive, such as evading taxes.

1 - Indirect Contributions

Since a wife started going out to work attempts have been made to demonstrate that she has by her earnings been able to contribute to the acquisition of the matrimonial home. In fact the 1981 Ordinance expressly provides that a wife shall be bound to contribute to the cost of running the home.[43] If her contribution is obligatory the question may arise whether a Cameroonian woman who so contributes in the running of the home automatically acquires an interest in the matrimonial home bought from a mortgage arranged solely by the husband. Assuming that she does not directly contribute to the subsequent mortgage instalments but denotes part of her income to meet join expenses in the maintenance of the household which would otherwise have been met by the husband, so as to enable him to pay the mortgage instalments out of his income; In the light of such contributions the view has been taken that such a house belongs to the both spouses because it could well have been the wife paying the

[40](1971) 1 All E. R. 952
[41]*Re Rogers' Question* (1948) 1 All. E. r. 328
[42]*Mansfield v. Mansfield* (1966) 10 S.J. 831; *Fish v. Fish* (1965) 109 S. J. 228; *Fennell v. Fennell (1966)* 110 S. J. 909
[43]S. 75 (2).

mortgage instalments and the husband running the home. This was the purport of Lord Denning's observation in *Fribance . Fribance,*[44] that:

> *In the present case, it so happened that the wife went out to work and used her earnings to help in the household and buy the children's clothes, whilst the husband saved. It might very well have been the other way round…. The title to the family assets does not depend on the mere chance of which way round it was. It does not depend on how they happened to allocate their earnings and their expenditure. The whole of their resources were expended, for their joint benefit… and the product should belong to them jointly. It belongs to them in equal shares.*[45]

Later, it was accepted that even contributions in kind will suffice. In this connection we are thinking of a wife who renders unpaid services in the husband's business,[46] or one who leaves her job to take care of the baby at home.[47]

It may be important to find out whether such indirect contributions are substantial. Would the husband have been able to pay the mortgage instalments and also support the cost of running the home? Or, it was because the wife contributed substantially in the running of the home that he was able to meet up with the instalments. Even the House of Lords in *Gissing v. Gissing*[48] Left this question unanswered, although the judges were all agreed on the principle that indirect contributions can confer an interest in the matrimonial home. In one case Lord Denning Preferred the latter conclusion namely the wife must prove that the husband could not have been able to pay the instalments if she had not contributed to the cost of running the home.[49] Surprisingly, however, Lord Denning abandoned this stance barely one year later and instead took the view that it was only sufficient that the wife should show proof that she had contributed to the cost of running the home. He maintained that:

> *It is sufficient if the contributions made by the wife are such as to relieve the husband from expenditure which he would otherwise have had to bear. By so doing the wife helps him indirectly with the mortgage instalments because he has more money in his pocket with which to pay them. It may be that he does not strictly need her help. He may have enough money of his own without it. But if he accepts it)* and *thus is enabled to save more of his own money), she becomes entitled to a share)*[50]

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[44](1957) 1 All E. R. 357 at P. 360

[45]See also *Allen v. Allen* (1961) 3 All E.R. 385 C.A.; *Muetzele v. Muetzel*(1970) 1 All E.R. 443 C.A.: *Nixon v. Nixon* (1969) 3 All e. R. 1133 C. A.

[46]*Re Cummins (1971)* 3 All E. R. 782 C. A

[47]This principle will not apply if the wife is paid for her services. See *simon v. Simon* (1971) 115 Sol. Jo. 673

[48](1971) a. C. 886 H. C

[49]*Hargrave v. Newton* (1971) 3 All E.R. 866, at p. 869

[50]*Hazell v. Hazell (*1972) 1 All E.R. 923, at P. 926 C.A And this conclusion is quickly arrived at if the wife's contributions are substantial.

This later decision seemed to go against the decision in *Gissing v. Gissing*[51]where the House of Lords held that in view of the fact that the wife's contributions were not substantial she took no interest in the home. In this regard therefore, the Court of Appeal decision in *Hazell v. Hazell*[52] cannot be justified.

The test today seems to turn on the intention of the parties and on whether the wife's contributions have some connection with the acquisition of the property in question. To take an interest, therefore a wife may be condemned to prove that her indirect contributions had been substantial. In *Achu v. Achu*[53] the appellant maintained that she had an interest in two plots and the houses on those plots in Ntarinkon and Santa, built by the respondent. To buttress her claim, she tendered receipts for school fees and electricity. The receipts did not mention who had paid the bills, while the electricity bills barely showed that the respondent was the consumer. The appellant could not produce any evidence to show how much she had contribution to the acquisition of the plots and the construction of the houses. She was on a salary of 49.000francs CFA per month. The respondent on the other hand was able to produce receipts for the two plots he had bought. In dismissing the appellant's case the court argued that it was impossible for her to have been able to help in the building of the houses on such a meagre salary.

2 - Improvements to the Matrimonial Home

It may happen that a spouse carries out improvements to the matrimonial home the legal title of which is vested exclusively to the other spouse. Where, as a result of an improvement the house substantially appreciates in value the spouse carrying out the work may want to know if he has, as such, acquired an interest in the home. Or would it be considered to have been a gift to the spouse who has title? This question was raised in the House of Lords in the case of *Pettitt v. Pettitt*[54]where it was held that a husband could not claim an interest in the wife's property simply because had had done in his leisure time jobs which a husband would normally be expected to do.

Such a decision could work injustice to a spouse who makes a substantial improvement in the matrimonial home. This factor must have militated in favour of the provisions in section 37 of the Matrimonial Proceedings and Property Act 1970. It is therein stipulated that:

> *Where a husband or wife contributes in money or money's worth to the improvement of real or personal property in which or in the proceeds of sale of which either or both of them has or have a beneficial interest, the husband or wife so contributing shall, if the contribution is of a substantial nature and subject to any agreement to the contrary express or implied, be treated as having then acquired by virtue of his or her contribution a share or an enlarged share, as the case may be, in that beneficial interest …*

[51]Supra
[52]Supra.
[53]Appeal No. BCA/62/86 (unreported)
[54](1969) 2 All e. R. 385 H.L

Section 37 is very explicit and indeed puts an end to the confusion that usually surrounded this problem of improvements to the matrimonial home. The section also applies to any other property owned by both or either spouse. Finally, its application is subject to any agreement arrived at by the spouses. So, if they agreed that the spouse carrying out the improvement would not have any interest, the court will give effect to their decision.