Divorce and Maintenace Payment

In a recent judgement of the Johannesburg Gauteng Division of the High Court, the Court made an order that a man (whose name cannot be disclosed to protect the identity of the minor child) pay a monthly maintenance amount in access of R67 000 to his wife and minor child after he claimed that he could only afford an amount of R2 000.

It is interesting to note that the parties were married to each other in 1999 and remained married at the time of bringing this application but do not live together as a married couple. They have two children born from the marriage – one of whom is still a minor.

They are married out of community of property with the accrual system, and the matrimonial home is registered in the wife's name.

Due to non-compliance from the husband in terms of maintaining the wife and children, the wife approached the Court for help in getting her husband to maintain her and their minor child.

The wife was gainfully employed throughout their marriage until 2017 when she was diagnosed with cancer and was later retrenched.

She and her children were always financially dependent on her husband.

The Court was presented with evidence that every time the wife pursued a business, her husband would allegedly interfere with its operations and that eventually led her to hand him the business to take over.

On 2 November 2021, she was forced to leave their home as she feared for her safety when he allegedly attempted to assault her.

The husband made an initial offer of R2 000 towards maintenance. This was starkly different to the estimate he gave for his property portfolio, which was valued at approximately R25 million.

The family also lived a very luxurious life, including weekend visits to the casino where the husband would give his wife R5 000 in cash for her and the children's entertainment and two holidays a year.

The Court said that the wife was close to retirement age and would find it difficult to find alternative and gainful employment at her advanced age.

Considering the above, the Court ordered that the husband pay the following monthly amounts in maintenance:

1. R20 000 spousal maintenance.
2. R15 000 maintenance for their minor child.
3. R9 625 for medical aid premiums for the entire family.
4. R7 495 for household costs.
5. R15 000 for accommodation costs for the applicant and minor child.

The lesson to be considered from this matter is that parties should not find themselves in a situation wherein they mislead the Court, as the Court will make its own determination based on the information and evidence presented before it.

When awarding maintenance, the Court considers the applicant's lifestyle during the marriage, the affordability of the amount by the party ordered to pay maintenance, and the reasonable needs of the applicant.

The Court considered the list of expenses and items that the applicant claimed maintenance for and considered the same to be reasonable. The Court found that the husband could afford to pay the amounts prayed for as they were expenses that he incurred in any event.

Thandeka Mpanza, Van Velden-Duffey Inc