COPY

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. S027 OF 1992

BETWEEN	HELGA STOECKERT	PLAINTIFF
A N D	PAUL GEDDES	DEFENDANT

Crafton Miller and Miss Nancy Anderson instructed by Mrs. Patricia Roberts-Brown of Crafton S. Miller & Co. for the Plaintiff

B. St. Michael Hylton Q.C., Steve Shelton Patrick McDonald and Paul Fisher instructed by Myers, Fletcher & Gordon for the Defendant.

October 17, 20, 23 - 27 and 31
November 1, 2 and
December 19, 1995

CLARKE, J.

JUDGMENT

The plaintiff, Helga Stoeckert, seeks a declaratory judgment together with consequential orders in terms of her prayer for relief against the defendant, Paul Geddes. The prayer reads thus:

"... The plaintiff claims:

(1) A declaration that [she] is entitled to one half (or such other proportion) of the sum representing the balances in all the bank accounts held in the joint names of [herself] and the defendant as of 16th April 1991;

(2) a declaration that [she] is entitled to be compensated for her services by way of a sum equivalent to the income to which she would be entitled under paragraph seven (7) of the defendant's will in existence on April 16, 1991....

(3) a declaration that the defendant is trustee for [her] for 50%, or such other proportion as the court deems just, of all property acquired by the defendant [between] 1963 and 1991, or during such period as the court deems just;

(4) an enquiry into the assets of the defendant including bank accounts as on 16th April 1991;

(5) an order for payment of such sums as [the court] finds due to [her]."

Miss Stoeckert's claim arises in the context of her past intimate relationship with Mr. Geddes. The relationship, if her evidence in that regard is to be believed, remained stable throughout the years from 1959 when they met until 16th April, 1991, when it ended. Premises at 1A Braywick Road, St. Andrew became their home. There they cohabitated as man and mistress for some 18 years, from 1973 until 16th April 1991. He had divorced in 1962 but told her that because his marriage had been unhappy he did not want to remarry. Now 64 years old, she remains a spinster without children, while he, about 82 years of age, is the father of two daughters, Mrs. Marilyn Clupp and Mrs. Pauline Butterworth. And since the termination of his relationship with his former mistress he has remarried.

Mr. Geddes has been a successful businessman. When they met in 1959 he was already a brewmaster and co-managing dirctor of Desnoes and Geddes Ltd. and manager and owner of Geddes Refrigeration Ltd. While they were living together he became the largest shareholder of Desnoes and Geddes Ltd. and by the time their relationship ended he had acquired inter alia large blocks of stocks and shares in several public and private companies in Jamaica and the Cayman Islands. For her part, Miss Stoeckert worked as a clerk in a bank and in her mother's factory in Germany before coming to Jamaica. She operated a meat processing plant for a number of years in Jamaica. Since 1967 she and her sister, Mrs. Christa Lundh, have been successfully operating, as joint owners, Hotel Four Seasons in Kingston. In the 1980's he made her a director of his company Geddes Refrigeration Ltd. but she was never remunerated for serving on the board of that company.

All that information, which speaks to the the surrounding circumstances in which the claim is made, comes from Miss Stoeckert's evidence. Mr. Geddes did not testify, electing, as he did, to call no evidence but to rely on a submission made on his behalf that Miss Stoeckert failed to make out a case for him to answer. In ruling on that submission I will, of course, determine the facts and the law. Yet, let me say at this stage that having seen and heard Miss Stoeckert in chief and under cross examination and having assessed her credibility, I accept her evidence of the surrounding circumstances as well as her evidence of the other facts and matters on which she relies. Although much of her evidence was challenged I find that it was not contradicted. And despite Mr. Hylton's submissions to the contrary, I find, that there is nothing incredible or inconceivable about any aspect of her evidence.

Take for instance the question of an agreement of a common intention between the parties and the question of Mr. Geddes' seeking and acting on Miss Stoekert's advice in respect to the purchasing of shares and the operations of the brewery at Desnoes and Geddes Ltd. Miss Stoeckert's evidence on those and other issues was characterised by Mr. Hylton as incredible. I disagree. She explained in a forthright manner circumstances that existed when she would advise Mr. Geddes. Although she readily agreed that she had no professional qualifications in the fields of stockbroking and brewing, her evidence was in my opinion, cogent and reliable.

Even if the court were to accept Miss Stoeckert's evidence, Mr. Hylton broadly submitted that as a matter of law she would fail. The pith of that submission is his contention that Miss Stoeckert cannot be entitled to an interest in any of Mr. Geddes' assets because the evidence adduced by her cannot establish a trust in her favour.

I agree that it is no part of a court's function to invoke a constructive trust as some sort of instant remedy to prevent what that court considers as an unjust result in a particular case. Indeed, I am wedded to the view that the categories of cases in which our courts will impose a trust should be extended only where our courts are able to lay down a new principle of general application. Rights of property are not to be determined according to what is reasonable and fair in all the circumstances; they are to be decided according to the principles of property law: Pettitt v. Pettitt [1970] A.C. 777; Gissing v. Gissing [1971] A.C. 886. The essence of this principle was extracted by Bagnall J in Coucher v. Coucher [1972] 1 All. E.R. 943 at page 948 where he said:

> "In any individual case the application of [Pettitt v Pettitt and Gissing v. Gissing] may produce a result which appears unfair. So be it; in my view that is not injustice. I am convinced that in determining rights, particularly property rights, the only justice that can be obtained by mortals who are fallible and not omniscient is justice according to law; the justice that flows from the application of sure and settled principles to proved or admitted facts. So in the field of equity, the length of the Chancellor's foot has been measured or is capable of measurement. This does not mean that equity is past childbearing; simply that its progeny must be legitimate - by precedent out of principle. It is well that this should be so; otherwise no lawyer could safely advise on his clients title and every quarrel would lead to a law suit."

So, where as here one party to a former settled concubinary relationship claims a beneficial interest in property, the legal title to which is vested in the other, a lawyer would be on safe ground if he advised that the claimant could only succeed if he or she established the existence of a trust. His advice would, of course, be the same if such a dispute existed between spouses or former spouses. In other words, the question whether a party to a marriage or common law relationship acquires rights to property, the legal title to which is vested in the other party,

must be answered in terms of the law of trust: see for instance Azan v. Azan S.C.C.A. 53/87 at page 3 (unreported).

In that case Forte, J.A. observed at page 4 that the criteria for determining whether or not such a trust is created, were correctly stated by Sir Nicholas Browne-Wilkinson V.C. in Grant v. Edwards [1968] 2 ALL E.R. 426 at page 437 thus:

> "If the legal estate in the [property] is vested in only one of the parties ('the legal owner') in order to establish a beneficial interest, has to establish a constructive trust by showing that it would be inequitable for the legal owner to claim sole beneficial ownership. This requires two matters to be demonstrated:
> (1) that there was a common intention that both should have a beneficial interest; and
> (2) that the claimant has acted to his or her detriment on the basis of that common intention."

Has the plaintiff proved the common intention?

Depending on the fact situation of the particular case, it is settled law that the existence of this common intention may be inferred from the parties' conduct or it may be proven by direct evidence of an agreement between the parties that both are to have beneficial interests.

Miss Stoeckert in her statement of claim pleaded that she and Mr. Geddes "at all material times agreed that the plaintiff would be compensated for her services, inter alia, as business advisor and for her active role in his business interests": Paragraph 11. She next pleaded that Mr. Geddes also led her to believe "both impiedly and by his conduct" that she would be compensated for her services generally: see paragraph 13. I cannot therefore agree with Mr. Hylton that by so pleading Miss Stoeckert has averred no express agreement to prove the said common intention but relies on the alleged conduct of the parties to support an inference of the existence of such an intention.

Miss Stoeckert having pleaded at paragraph 11 of her statement of claim an agreement between the parties that she was to be compensated for her services therein stated, the question arises, in the light of her subsequent averments, whether there is sufficient direct evidence of a common intention that she should have a beneficial interest in Mr. Gedden assets. I bear in mind that such direct evidence need have nothing to do with any question of direct or indirect contribution to the cost of acquisition of the assets. Gissing v. Gissing (supra) and Burns v. Burns [1984] 1 All E.R. 244 were cases where there was no direct evidence of a common intention that the claimant would have a beneficial interest. In those cases the courts were concerned to determine **inter alia** whether a common intention could be inferred from the actions of the parties. In neither case could a common intention be inferred, there being no expenditure referrable to the acquisition of the house in question.

Mr. Miller submitted that those cases are distiguishable from the instant case because unlike those cases there is enough direct evidence in the case before this court of a common intention that Miss Stoeckert would have a beneficial interest in the assets of the defendant. Eves v. Eves [1975] 3 All. E.R. 768 and Grant v. Edwards (supra), both decisions of the English Court of Appeal were indeed cases where direct evidence of a common intention between married couples was found to exist. In the earlier case the common intention was proved by the fact that the claimant was told that her name would have been put on the title deeds but for her being under age. In the later case Sir Nicholas Browne-Wilkinson V.C. pointed out that the representation made by the man to his mistress that the house would have been in their joint names but for her matrimonial disputes, was clear direct evidence of a common intention that she was to have an interest in the house.

In each of the two cases just referred to, the direct evidence of common intention related to property, the legal

title to which was at all material times vested in the respective defendants. In this case however, it is to be observed that during the period 1973 to 1991 when the parties lived together at 1A Braywick Road, the legal title thereto was vested in Desones and Geddes Ltd. Mr. Geddes had for valuable consideration transferred the property to that company in 1967. The company remained the registered proprietor until November 1992 when it was re-transferred to him, again for valuable consideration. And although there is evidence that the purchase price paid by Mr. Geddes on the re-transfer was considerably below the market value of the property, the transactions have not been vitiated. I find, therefore, that that property does not form part of Mr. Geddes' assets over the relevant period.

Nevertheless, there is some direct evidence of a common intention between both parties that they would share the beneficial interest in the defendant's assets. In the result those assets would be the ones held by him down to the date of the separation. What is that evidence of the common intention and is that evidence sufficient? I accept Miss Stoeckert's evidence in this connection as follows:

(a) that just before the General Election in 1980 and, prior to Mr. Geddes, leaving for Mexico, he verbally assured her that she would be totally in charge of all his possessions and business, if the Labour Government had lost the Election;

(b) that on a number of occasions in the 1980's after the Jamaica Labour Party had won the General Election and after Mr. Geddes had returned to Jamaica, he verbally assured her that she should not worry about any financial matters as she would be the "richest corpse" in Jamaica.

(c) that Mr. Geddes used the expression "richest corpse" in the context of their talk about her financial security, assuring her that until she died he would make her wealthy and would provide for her in his will equally with his two daughters;

(d) that Mr. Geddes assurances to her that she would have a beneficial interest in his assets stood until their relationship ended on 16th April, 1991;

(e) that those assurances found written expression in his will which, in her presence, he instructed his lawyer to prepare; the will was drawn up by his lawyer and duly executed by Mr. Geddes in 1985 only after she was taken to the lawyer by him. By the will (as yet unrevoked) a copy of which he gave her that same year, he appointed her one of his executrices and bequeathed to her a life interest in one third of the income from his residuary estate;

(f) on or about 15th June, 1986 he gave her 23,300 shares in Desones and Geddes Ltd. in which he then held 9.2 million shares. And between 1983 and about 1989 he established respectively in their joint names for their benefit and not for convenience three not insubstantial bank accounts of interest bearing status, namely in Royal Bank of Canada, Europe Ltd. in London, England; Barnette Bank, Florida, U.S.A.; and Cayman National Bank in Cayman Islands.

On those facts I find that there was an express oral agreement as contended for by Mr. Miller. Those facts are, in my view, of great cumulative force. When taken together, as they must in the circumstances of this case, they provide,

in my opinion, sufficient direct evidence of the oral agreement pleaded by Miss Stoeckert of a common intention between herself and Mr. Geddes that both would have beneficial interests in the assets vested in him. Such a common intention remains effectual in spite of the sudden and devastative ending of the relationship by him on 16th April 1991 and the revocation of the will by his subsequent marriage to someone else on or about 22nd April 1991.

The facts of the instant case are distinguishable from the facts of Azan v. Azan (supra) and Windeler v. Whitehall [1990] 2 FLR 505 relied on by Mr. Hylton. Miss Windeler's case bears only superficial similarity to the facts of the case before me. There the parties had lived together as man and mistress for approximately five years. The defendant was a successful businessman. The plaintiff would look after his house and would entertain for him. In 1979 the defendant sold his house and purchased a larger one. The plaintiff made no contribution to the purchase but supervised some minor building works carried out on the new house. Later that year the defendant made a will leaving to her his residuary estate. In 1980 he opened a bank account for her in her own name. But that account was maintained throughout in overdraft. By that same year their unstable relationship was deteriorating and in 1984 it ended. The will was revoked by his subsequent marriage in 1986 to someone else.

Millet J. dismissed the plaintiff's claim for a proprietary interest in the house and business. He held that there was neither a basis for inferring a common intention from the conduct of the parties that the plaintiff should have a beneficial interest in the house and business nor was there any direct evidence of any such intention. The judge pointed out that the fact that the defendant made a will in 1970 leaving his

residuary estate to the plaintiff was not evidence supporting an intention that she should have an interest in the house. Be it noted that both parties testified and the judge found from the evidence of both parties that the testamentary provision was a recognition of some moral obligation at that time on the defendant's part to provide for the plaintiff if he should die unexpectedly and while circumstances remained the same. This is not this case, for there plainly is no such limitation in the context of the facts of the case before me. Mr. Geddes manifested his intention to give Miss Stoeckert a beneficial interest in his assets as witness, for instance, the circumstances attending the making of the will. The good relationship between them continued until the time of their separation. The relationship was consistent with the patent common intention manifested **inter alia** by the will which remained unrevoked until about a week after the relationship ended.

In Azan v. Azan the parties had, as a married couple, jointly operated companies and on the dissolution of their marriage had made a settlement of their joint assets. The question of the beneficial ownership of certain shares held in the sole name of the husband in a separate company arose on appeal. The Court of Appeal held that the words, "what is yours is mine and what is mine is yours" used by the husband to his wife during the course of their marriage, were in the context of the particular facts too general to constitute sufficient evidence of an express agreement or arrangement between them that the said shares should be jointly owned by them. The shares had been purchased by the husband from funds out of his separate banking account and from a loan he had secured and had subsequently repaid from the profits of the company in which he held the shares. He and the wife had made specific arrangements relating to their separate banking accounts into which they paid their earnings. Each had added

the name of the other to their individual accounts merely for convenience. And if one spouse gave appropriate instructions the other would be able to withdraw funds from the account to which his or her name had been added. As Downer J.A. pointed out in that case at page 34, "the general words used during the marriage could not override the specific arrangements pertaining to their banking accounts." Nor could a common intention be inferred from the conduct of the parties. In any case, no trust, implied, resulting or constructive could arise in favour of the wife because she did not, as the Court held, act to her detriment on the basis of any such common intention as was alleged.

Has the plaintiff in the instant case acted to her detriment on the basis of the common intention?

In equity, common intention alone will not suffice: the plaintiff must also prove that she has acted to her detriment in the reasonable belief that by so acting she was acquiring a beneficial interest in the defendant's assets. She has to manifest a link between the common intention and the actions relied on as a detriment.

What were those actions relied on as a detriment? Detailed below, they were services which took the form of encouragement, discussions and advice given by her at Mr. Geddes' request and without remuneration. They were given in relation to his business and aspects of the construction and improvement of premises 1A Braywick Road. That property is not, as I have already found, part of Mr. Geddes' assets that could be subject to a trust in favour of Miss Stoeckert. Yet, as far as she was concerned, I find that it did not matter that Desnoes & Geddes Ltd. was the registered proprietor of the property. Even after he had transferred it in 1967 she considered him the owner because of the representations he had made to her. I also find that he induced her, at least in part, to give him the advice he requested; that in discussing with him areas of improvements

and in giving him advice which led to improvements to the property, she believed that she was acquiring a beneficial interest in his assets. The improvements to the property which were contributed to by the advice she gave him and discussions she had with him included:

(a) the landscaping of the grounds and the practical design of the house constructed thereon;

(b) the building of a separate kitchen for staff;

(c) changing the design of the main entrance door to the house by having the wooden columns at the entrance replaced by concrete walls, sliding windows and three doors;

(d) re-designing and raising the level of the swimming pool to the level of the pool kitchen so as to facilitate the entertainment of guests;

(e) installing a metal fencing along the driveway right up to the house and completely fencing the front part of the house for improved security.

As for Mr. Geddes' interest in the brewery firm of Desnoes and Geddes Ltd., it is indisputable that it grew throughout the period of his relationship with Miss Stoeckert. I find that that growth was facilitated by a significant role played by her in advising him, participating in business discussions with him and others and assisting him in the decision making process of the company in its operations in Jamaica, United States of America and England. She would advise and encourage him to acquire more and more shares in the company. He took her advice from time to time. His shareholding in that company increased over the period 1973

to 1991. As a result of a stock split about the year 1988 he then held 9.2 million shares on in the company. By the time the relationship of the parties ended he held approximately 11.1 million shares.

For Miss Stoeckert, "Mr. Geddes was Desnoes & Geddes. His father was the founder and he [the defendant] was the single biggest shareholder. Nothing to him was more important than the success of Desnoes and Geddes Limited". I accept her evidence that he often discussed with her, and solicited her advice on problems at the company. One of these concerned the need to secure the services of a consultant to help streamline the operations of the company. She helped him to recruit one Paul Strauss for the job. Both spoke with Mr. Strauss in 1990 in Chicago and thereafter arrangements were made with Mr. Strauss to come to Jamaica. Another problem had to do with the vexed question of the expansion of the brewery. His plan as to how the expansion was to be implemented prevailed, thanks to her advice support and encouragement. Although there were differences of opinion in the company as to how the brewery should be expanded she advised him to stand firm and insist on having his plan implemented. She gave this advice after she had, at his request, discussed the plan with him and an expert on brewery expansion who had been called in from Heinekin in the Netherlands.

Miss Stoeckert gave a true history of Mr. Geddes' involvement on behalf of Desnoes & Geddes Ltd. and on his own behalf in the marketing of Red Stripe beer in the United States, England and St. Lucia. I accept her evidence that she played an active role in that involvement by participating in discussion with the executives involved and advising Mr. Geddes on the major decisions he should take.

In 1977 the first efforts were made through agents for Guiness to market Red Stripe beer in the United States. Those efforts failed and in the 1980's arrangements were made to bring the beer on the American market largely through one Abraham Schecter of R.J. Imports Ltd. In November 1987 in Chicago, Mr. Geddes had Miss Stoeckert participate in discussic with R.J. Imports Ltd with a view to increasing the American market for Red Stripe beer. In this regard she had intensive discussions with Mr. Geddes, executives from Desnoes & Geddes Ltd and with Mr. Schecter of R. J. Imports Ltd. These discussions concerned the joint venture between both companies for marketing Red Stripe beer.

On May 17 and 18, 1990 both Mr. Geddes and Miss Stoeckert participated in a manager's meeting in Chicago. And later that year at the Marriott Hotel they discussed with representativesfrom R.J. Imports Ltd and Brau & Brunnen, a German company, the marketing of German beer together with Red Stripe beer. As Miss Stoeckert recounted, there were two competing views. One view was to close the marketing operatio The other view was to "buy out" Mr. Schecter. He wanted to deal direct with Mr. Geddes on the question of the sale of his interest in R. J. Imports Ltd. There were several meetings between both men which Mr. Geddes discussed with Miss Stoecke Again, I accept her evidence that she advised Mr. Geddes to keep Red Stripe Beer on the market in America and "if it meant to buy out Mr. Schecter he should do so, but not to cease selling Red Stripe beer in America". When asked if he accepte her advice she modestly said, "apparently, because Red Stripe is still largely represented in America."

Red Stripe beer began to be brewed in England in 1977. One Mr. Gangoli was then responsible for marketing it in that country. he did not successfully market the product. A decision had to be be taken whether or not brewing of the beer

should cease in England. Mr. Geddes discussed the problem with her and sought her advice. She advised him to persist with the project and to invest his own money therein. This he did by investing US$50,000.00 which was matched by Jim Lim, an executive of Desnoes & Geddes Ltd. That is how, as Miss Stoeckert has said, the brewing and marketing of Red Stripe beer in England was saved. She subsequently visited the brewe- in England several times. And on several occasions she entertained Red Stripe executives from England at 1A Braywick Road.

She visited Holland with Mr. Geddes in 1990 and had discussions with executives of Heinekin about the Heinekin brewery in St. Lucia, 10% of which Desnes and Geddes Ltd. owned. As she recounted in evidence, problems had been experienced with regard to the quality of Red Stripe beer brewed by Heinekin in St. Lucia. There had been an insistence on selling Red Stripe in St. Lucia at the premium price it once fetched as an imported beer although the St. Lucian public felt that the locally brewed beer was of inferior taste to its imported counterpart. In the result Red Stripe beer brewed in St. Lucia had not been selling well. So, at Mr. Geddes' request, she participated in discussions about the problem, and, in supporting Mr. Geddes, advised the representatives of Heinekin to reduce the selling price as well as the production of Red Stripe beer in St. Lucia. This was done and the problem was solved.

Brewing and marketing Red Stripe beer was certainly not Mr. Geddes' only business involvement. Between 1970 and 1990 Miss Stoeckert advised him on the purchase and acquisition of several assets in Cayman including real property and company shares. Yet, there was at least one occasion during that period when on soliciting her advice she counsel[illegible] him against

building apartments in Cayman then, pointing out that many companies in that island had become insolvent as they had produced an over supply of apartments at that time. He took her advice and so saved money.

In 1989 he acquired a hotel in Cayman called, The Cayman Islander. It had run down and needed efficient management and refurbishing. She discussed the requirements of the task with the management team of the hotel and visited the hotel with Mr. Geddes during the refurbishing. She used her vast knowledge and experience in the hotel industry to advise him on the steps to be taken. She sent her neice, Daniella Lundh and Daniella's fiance, Walter Oberscheimer to help run the hotel. At the same time she arranged for one Mrs. Ester Lowry, an experienced hotelier, to assist them. And having identified in a letter to Mrs. Lowry a number of problems with the operation of the hotel she requested Mrs. Lowry to report to Mr. Geddes on the hotel's operations and feasibility. Mrs. Lowry subsequently presented her written report. Thereupon both Mr. Geddes and Miss Stoeckert decided that a new general manager was needed. Then in February 1990 he employed one Miss Piper who, as it turned out, became his bride about a week after he had severed his relationship with Miss Stoeckert.

Nevertheless, on the totality of the facts found and rehearsed above I have no hesitation in finding that Miss Stoeckert, as was pleaded on her behalf, served as "a confidante and business supporter to the defendant at every level, and was a sounding board in and about his business interests and decisions".

In rendering the services specified above I find that Miss Stoeckert consciously relied on the patent common intention that she would have a beneficial interest in Mr. Geddes' assets

existing during the period of their cohabitation. Whilst it is true that she said at one point under cross examination that she had not performed the services because of any expectation of monetary compensation, she insisted that there was an agreement that she would be compensated and that Mr. Geddes more than led her to believe that she would be compensated I find that there was a holding out to her by Mr. Geddes that she had a beneficial interest in his assets and that that conduct on his part induced her, at any rate in part, to render the unpaid services aforesaid. Those services could not, in my judgment, have been reasonably expected to have been performed by her unless she believed she was to have a beneficial interest in his assets. So she acted in reliance of the said holding out. Those services constituted, in my opinion, conduct on her part which in the words of Nourse L.J. in Grant v. Edwards (supra) amounted to "an acting upon" the express common intention, as distinct from conduct from which a common intention can be inferred.

Miss Stoeckert has therefore, in my opinion, shown the vital link between the common intention and the actions relied on as a detriment. I am satisfied that she did act to her detriment on the faith of the common intention between her and Mr. Geddes that she was to have a beneficial interest in his assets. Accordingly, she has satisfied the conditions for the creation of a trust in her favour in the assets of Mr. Geddes as they existed down to 16th April 1991. Those assets are trust property. Miss Stoeckert's share of it may now be quantified.

The extent of the plaintiff's beneficial interest

Although both parties are entitled to interests in the trust property, the legal title to which is vested in Mr. Geddes, equal division would only be ordered where there is no good

reason for any other basis for division. There plainly was a common understanding between them that quite apart from his interest, her interest would be limited on the basis of his declared intention to provide for her equally with his two daughters. The will though revoked by his subsequent marriage reflected that common understanding which I think remains relevant to the question of the quantification of her interest.

That common understanding I take into account. I also bear in mind the contribution she made at his request to improving 1A Braywick Road and, more particularly, to advancing and expanding his assets and business interests by performing the aforesaid unpaid services.

I therefore make this binding declaration of right: that Miss Stoeckert is entitled to one sixth (1/6) share of the value of Mr. Geddes' assets as at 16th April 1991 and that he accordingly holds the said share upon trust for her. The submission of no case is therefore overruled.

For reasons I have already given, 1A Braywick Road does not form part of the assets subject to the trust. But included are the shares held by the defendant in Sun and Land Ltd., All Seasons Ltd., Jetto Ltd. and Cayman Islander Ltd., (all incorporated in Cayman), bank accounts held abroad in the joint names of the parties as well as shares in the following companies: (a) Desnoes and Geddes Ltd., (b) Canadian Imperial Bank of Commerce Ltd., (c) Jamaica Citizens Bank Ltd., (d) Mutual Security Bank Ltd., (e) The Gleaner Company Ltd., (f) Kingston Ice Making Company Ltd., (g) Montego Bay Ice Ltd., (h) Telecommunications of Jamaica Ltd., (i) Geddes Refrigeration Ltd., and Bush Boake Allen Jamaica Ltd.

I find from the evidence of Wayne Iton, general manager of the Jamaica Stock Exchange that the public companies at (a) to (h) above traded on the Stock Exchange on 16th April

1991. I also find that on that date the value of each unit of stock or share of the said companies was $10.00, $10.80, $11.80, $7.95, $6.00, $12.10, $20.00 and $2.25 respectively

Simonie Barrett of the office of the Registrar of Companies gave evidence (which I accept) as to the shares the defendant held at different periods of time in the aforementioned companies. Apart from the shares the defendant held in Desnoes and Geddes Ltd (11,071,640 shares) her evidence was, however, not sufficiently specific as to the quantum of the shares he held in the various companies as at 16th April 1991 and indeed, as to whether he held shares down to that date in certain other companies. Miss Stoeckert herself said that on 16th April 1991 he owned (a) the land on Spanish Town Road on which Geddes Refrigeration Ltd is located (b) four premises at South Camp Road (c) one house and land at Kensington Road, Kingston (d) a lot of land in St. Mary and (e) two lots of land in Montego Bay. Although she is a credible witness that evidence is of course not sufficiently specific.

The attorneys on both sides have, however, agreed that if the Court makes a declaration consistent with the prayer for relief, it would be appropriate for the court to make an order as prayed at paragraph 4 of the prayer. I agree

Accordingly I order that the Registrar of the Supreme Court inquire and report on the particulars of the assets of the defendant (including the value thereof) as they stood on 16th April 1991. She will inquire and report in terms of a draft order to be submitted to me by the attorneys for the plaintiff within 21 days of the date hereof for approval.

The defendant must pay the plaintiff's costs which are to be taxed if not agreed.