EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN [SQUARE BRACKETS].

NOTE: PURSUANT TO S 35A OF THE PROPERTY (RELATIONSHIPS) ACT 1976, ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B, 11C AND 11D OF THE FAMILY COURT ACT 1980. FOR FURTHER INFORMATION, PLEASE SEE https://www.justice.govt.nz/family/about/restriction-on-publishing-judgments/

IN THE FAMILY COURT
AT NORTH SHORE

I TE KŌTI WHĀNAU
KI ŌKAHUKURA

FAM-2018-044-000536
[2019] NZFC 9883

IN THE MATTER OF	PROPERTY (RELATIONSHIPS) ACT 1976
BETWEEN	[ALFRED BECK] Applicant
AND	[MOLLY WILKERSON] Respondent

Hearing:	19, 29, 25 November 2019
Appearances:	S Cummings for the Applicant J Noble for the Respondent
Judgment:	9 December 2019

RESERVED JUDGMENT OF JUDGE L J RYAN
[Identification and Division of Relationship Property – Section 18B Compensation – Section 32(2) Lump Sum Child Support]

Background

[1] The parties began living together in [United Kingdom country deleted] in September 2005. They married on [date deleted] 2008 in [the United Kingdom]. Their only child [Tanya] was born on [date deleted] 2012. The respondent was born in [the United Kingdom] which is where her parents continue to live. The applicant was born in New Zealand.

[2] In November 2016 the applicant left [the United Kingdom] and returned to New Zealand where he resided at the home of his mother on [location deleted] in [location A]. The respondent and [Tanya] remained in [the United Kingdom] in a home that they jointly owned in [location Z]. That had been the parties' home during the period they resided in that country. The respondent and [Tanya] moved to [location A] and began residing in [the applicant's mother's home] on 1 January 2017.

[3] The applicant moved out of [his mother's home] on or about the 24 January 2017 and the parties have not lived together since.

[4] On 31 January 2017 the respondent, with [Tanya], moved into a property the parties jointly owned in [address A], [location A], until that property was sold in January 2018. The net proceeds of sale have been held in a solicitor's trust account since that time pending either agreement as to a division of relationship property between the parties or a Court order.

[5] As at the hearing date the property in [location Z] remains in the joint names of the parties. I am advised that there is an offer to purchase the home which is, using New Zealand terminology, conditional upon the purchasers raising finance to complete the purchase.

[6] In 2013 and 2014, on the advice of the respondent's brother, [Cody Wilkerson], the parties decided to venture into the world of cryptocurrency. They began what is referred to as a mining operation in Litecoins. Given the applicant's experience and understanding of IT and his familiarity with digital data and the internet, it seems that he was the person who took a particular interest in the mining activities. It appears in

fact that the applicant eventually acquired purpose-built laptops and hard drives which were used solely as "mining rigs". There is a disagreement between the parties as to the total number of Litecoins mined during this two-year period. The respondent deposes to there being 544 Litecoins acquired, whereas the applicant denies that quantity and estimates without any certainty, that at best they would have acquired 300 Litecoins.

[7] In order to limit the possibility of Litecoins being stolen once they have been mined off the "blockchain", the parties followed the recommended practice of regularly removing the Litecoins acquired into what are known as "wallets". These are digital wallets accessible on the laptop or hard drive used, as I understand it, for the mining activity.

[8] In order to access the wallets hardware is required. In this instance the laptops and hard drives were left in the [location Z] home when the parties came to New Zealand. However, they had backed up the data from the laptops/hard drives to an iPhone 4. The evidence of both parties is that the iPhone 4 cannot be found. Each party blames the other for being responsible for that state of affairs. Each party accuses the other of in fact accessing the electronic wallets and cashing in the Litecoins that were collected in them. In the applicant's case he accuses the respondent, her brother [Cody], or possibly her current partner as being responsible for the theft of the Litecoins in the wallets. For the respondent, she accuses the applicant of having cashed in the Litecoins using the proceeds to acquire drugs and alcohol and for the purposes of international travel.

[9] On 17 October 2019 the parties agreed on care arrangements for [Tanya] and a final parenting order was made that provided for [Tanya] to be in the day to day care of her mother, the respondent, and for her to be in the care of her father every second weekend from Friday after school until Monday morning, together with half of every school holidays. Prior to that, contact between [Tanya] and her father was supervised by the father's parents and took place from after school Friday until Sunday afternoon. It seems the reason for the supervision requirement was the respondent's concern about the father's abuse of alcohol and drugs and the consequent risk that caused for [Tanya] to be in his unsupervised care.

[10] According to the respondent's evidence, the applicant's abuse of drugs and alcohol had been a concern of hers for some time during the latter stages of the marriage, and she attributed the cause of the separation to those issues amongst others.

[11] The applicant was clearly devastated by the ending of the relationship. He was suffering from depression and taking medication for this prior to the separation. In the early part of 2017 his mental health suffered considerably. In fact, he voluntarily admitted himself into a mental health facility in [location deleted] for a period of time and acknowledges attempting suicide. Consequently, he was unable to earn a reasonable income for a time. Fortuitously his father who is a manager of a [company deleted], managed to provide him with employment as a [job deleted] and he has been able to earn an income sufficient to support himself and make some contribution towards the support of [Tanya] by way of a formula assessment under the Child Support Act. His contribution to [Tanya]'s care amounts to around $20 per week.

[12] The respondent is in full-time employment and has been so since the parties separated. She earns an income of slightly in excess of $82,000 per annum which is greater than the income earned by the applicant. She has repartnered with a person who was known to the applicant. This is a point with which the applicant remains troubled.

Issues

***A** Litecoins*

[13] The Litecoins are obviously relationship property assets. There is disagreement as to the quantity acquired and as to their value. There is also the question of whether they have been cashed in by either one of the parties or a third party. In the event that I am satisfied that one of the parties has benefitted from the sale of the Litecoins, the issue then becomes what compensation is payable to the other party. The respondent also submits that s.18C could provide a remedy enabling compensation to be awarded to her.

***B** The amount of relationship liability owing to Mr [James Beck]*

[14] Mr [Beck] is the applicant's father and it has been agreed that some advances he made to the parties are relationship liabilities. There is no agreement as to the extent of those liabilities.

C *Section 18B*

[15] The respondent seeks compensation for her care of [Tanya] between the separation and now. The applicant utilising the same statutory provision seeks an allowance for occupation rent and the loss of use of funds due to his inability to access his share of the sale proceeds of the former family home in [location A].

D *The respondent seeks a lump sum payment for child support pursuant to s.32 of the Property (Relationships) Act, which is opposed by the applicant*

E *Rulings are required in respect of various adjustments to be made to effect an equal division of the assets and liabilities*

F *The [location Z] property*

[16] Both parties acknowledge that as this property is an immovable located outside of New Zealand, this Court has no jurisdiction to make orders in respect of it. The applicant asks me to either put in place a bond or provide some other financial incentive to ensure that the respondent cooperates in effecting a sale of this property as he lacks trust in the respondent to take the necessary steps to ensure the property is sold promptly.

Credibility

[17] Given the allegations each party makes against the other in relation to the Litecoins, obviously the credibility of both the applicant and respondent has some bearing on my ability to make findings of fact. I need to say at the outset, that I found the respondent a more credible witness than the applicant. My reasons relate in large part to her better recall of relevant events. She exhibited a clarity of thinking; she gave thoughtful and balanced responses to questions; she made concessions even to her detriment. I refer in particular to her preparedness to accept that the applicant's father

was probably telling the truth when he gave evidence to the effect that the $10,000 he had given the parties was a loan not a gift. She simply added that she had not been aware, at the time, that the advance was a loan. It is to her credit that she made that concession. She presented in a calm way notwithstanding the pressure of being under cross examination and the emotional toll that this litigation had had on both of the parties.

[18] On the other hand, the applicant continued to demonstrate by his demeanour in the witness box, his manner of presentation and responses to questions, that he was still distressed by the marriage breakup and still very bitter about the respondent entering into a relationship with an old friend of his. As I will touch upon later, he refused to even acknowledge his excessive drinking in the face of compelling evidence of his expenditure on alcohol, downplaying the extent of his abuse of alcohol not only in his evidence to the Court but also to a psychiatrist who was undertaking an assessment for the purposes of his mental health issues. The applicant exhibited very poor recall of relevant events around the time of, and following on from, the separation, which may have been a result of his mental health issues and alcohol abuse at the time.

[19] I prefer the respondent's evidence to that of the applicant in relation to the applicant's behaviour leading up to the separation, namely, his abuse of drugs and alcohol, and I accept the respondent's evidence that she had never met the man with whom she now has a relationship, until after the separation. I also accept her evidence over that of the applicant about the length of time that had passed since the applicant had anything to do with her current partner. I find that indeed it was something like 18 years since the applicant had anything to do with that man, although it is possible that without the knowledge of the respondent, he and the applicant did catch up at one stage in 2016. All of that of course is irrelevant to the findings I have to make in relation to the issues, but it is important for me to make it clear that the applicant's bitterness over the marriage breakup and his inability to make obvious concessions in relation to any matters of importance, lead me to conclude that much of his evidence is unreliable.

[20] I record at this stage of my judgment that I am applying the standard of "balance of probabilities" to the proof of any facts at issue. Whilst the Court of Appeal has made it clear that the role of the Family Court in proceedings under the Property (Relationships) Act is more inquisitorial than adversarial, and that a Judge needs only to be satisfied of a state of affairs or of a particular fact sought to be established, there remains a burden of proof upon a party wishing to establish that particular fact.

[21] Because I have concluded the applicant's evidence to be less compelling than the respondent's, does not mean that all of his evidence should be disregarded. I am very mindful of the state of mind he was in following the breakup at the beginning of 2017 and the fact that he continued to be disabled by his mental health issues for much of that year. I have concluded that the rather confused and rambling nature of some of his responses to questions in cross examination may have been as a result of his poor functioning during 2017 and the clear struggle he still has to some extent, today, in coming to terms with the fact that not only his relationship with the respondent is over but she is living with another man. His demeanour and lack of ability to concentrate during his cross examination, has to be seen in that context. His vitriolic and unbalanced attack on [Cody Wilkerson] in the series of Facebook Messenger communication is an example of his irrational thinking at the time.

A The Litecoins

[22] I find that indeed in 2013 and 2014 the parties acquired Litecoins through the process of mining and they held a number of those Litecoins in electronic wallets, accessible through a laptop or hard drives left in their property in [location Z], and by way of an iPhone 4 which was used as a backup device. The respondent claimed that she remembers them celebrating as a couple when they reached the milestone of acquiring 500 Litecoins and her last recollection was that they eventually acquired 544. The applicant denied that. He pointed out that he was the party responsible for the mining activity. He was the more computer literate of the two and he took a far greater interest in the acquisition of the Litecoins than did the respondent. His assessment was they may have acquired somewhere around 300 Litecoins by the time they had separated.

[23] There is no process, as I understand it, to obtain any record of the total number of Litecoins mined without access to the electronic wallets. Without any documentary or electronic evidence to support either party's contentions as to the number of Litecoins mined, it is not possible for me to make a finding even on the balance of probabilities that one party's assessment is more accurate than the other. Notwithstanding the observations I have made earlier concerning credibility, it is more likely than not that the applicant had a better grasp of the result of the mining activity than the respondent. However, given the finding that I am about to make in relation to the whereabouts of the Litecoins, the number of those acquired by the separation date, becomes irrelevant.

[24] I want to deal first with the applicant's allegation that the respondent, her brother [Cody] or her current partner are responsible for stealing the iPhone 4 and cashing in the Litecoins. Other than pointing to a few suspicious comments made by [Cody Wilkerson] in an exchange of messages relating to cryptocurrency, there is not one piece of evidence the applicant can point to, supporting the allegations he makes. The applicant says that because his passport went missing at the same time as the iPhone 4, which occurred around the time the respondent and [Tanya] moved back in to the [address A] property, the respondent must have been responsible for the fact that both passport and iPhone 4 went missing. The evidence suggests that neither have since been found.

[25] If I accept the applicant's evidence that he kept the iPhone 4 and his passport together then obviously, given the passport would have been required for the applicant's trip back to New Zealand, he had possession of his passport and the iPhone when the parties separated on 24 January 2017. His evidence confirmed by the respondent is that he moved out of his mother's home. It is from that time onwards that the passport and iPhone 4 seemed to have disappeared. I am not prepared to conclude that the respondent took the passport and iPhone 4 from the applicant's mother's home when she moved back into the [address A] property. She denies that occurred. The applicant, whether he did so together with the respondent or not is irrelevant, searched the [address A] property in May 2017 to try and locate his passport and iPhone without success. That evidence is just simply not sufficient to persuade me on the balance of probabilities that the respondent had possession of the iPhone 4.

Other than the fact that the respondent was seeing her now partner around that time, there is no evidence implicating the respondent's partner in the disappearance of the iPhone 4. The evidence falls far short of establishing on the balance of probabilities the respondent's partner had any part to play in the disappearance of that backup device.

[26] Clearly there is no love lost between the applicant and [Cody Wilkerson]. The language used in the communication between the two of them demonstrates the degree of animosity that exists. It is possible that somehow [Cody Wilkerson] may have gained access to the electronic wallets. Given my finding that the iPhone 4 was in New Zealand at the time the parties separated, I doubt very much if [Cody Wilkerson] could have used that device to access the electronic wallets. It is possible however, as the applicant alleges, that [Cody Wilkerson] may have been responsible for removing the laptop and hard drives from the [location Z] property at some later stage. However, as the applicant himself says, without the passphrase used to access the electronic wallets, [Cody Wilkerson] would not have been able to deal with the Litecoins in any way whatsoever.

[27] The applicant has failed to present sufficient evidence to persuade me on the balance of probabilities that [Cody Wilkerson] has had access to the electronic wallets in order to dispose of the Litecoins.

[28] The respondent is of the view that the applicant's allegations that the iPhone 4 was lost is a smokescreen to hide the fact that he used the iPhone 4 to access the electronic wallets and has disposed of the Litecoins and retained any funds received. To support that allegation, she gave evidence that the applicant failed to take any steps to investigate "wallet recovery services" and that he had never put the iPhone 4 in "lost" mode. The applicant's evidence in relation to those two points, which evidence I should say I accept because of the applicant's technical expertise, is that the iPhone 4 had been "jailbroken" which meant that it was only used as a storage device like a USB stick, and that it had no iCloud connection. No iCloud backup means, according to the applicant, that the "lost" feature cannot be utilised. I also accept the applicant's evidence that in order to use wallet recovery services there must be hardware in existence.

[29] The respondent was firmly of the view that the applicant had received cash funds from the disposal of the Litecoins and that he was using this to acquire drugs, to undertake international travel and to support himself. The respondent relied on hearsay evidence from a [Jeff Diaz] and [Caleb Kelly] concerning drug dealing allegations. There was no explanation on behalf of the respondent as to why these two individuals had not sworn affidavit evidence in support of the allegations she was making. The importance of those statements in the overall assessment of the issue relating to Litecoins is of course vital. In the face of the critical nature of this evidence, and the somewhat vague allegations that were made, I am not prepared to rule that hearsay evidence as admissible even though the Family Court has some ability to admit evidence that would otherwise be inadmissible under the Evidence Act. Accordingly, I disregard that evidence.

[30] The respondent alleged that the trips made by the applicant, particularly the trip to the USA, were undertaken utilising the proceeds of the sale of the Litecoins. However, I am satisfied on the balance of probabilities that in fact one or both of his parents funded that travel and I also accept the applicant's evidence that the travel was done on a shoestring budget.

[31] Nowhere in the voluminous bundles of bank statements and credit card statements is there any evidence of unexplained funds of any substantial nature. There is mention of a payment of $2107 received by the applicant on 23 February 2017. I accept the applicant's evidence that he had paid for an airfare for an acquaintance of his and this deposit represented a payment by that acquaintance refunding the amount of the airfare debited to the applicant's credit card.

[32] Having identified the source of funds for his travel and having noted income he was receiving from time to time, together with loans from his parents, there is no evidence that the applicant had access to alternate funds such as cash that might have been received from the sale of the Litecoins. In fact, as early as the beginning of May 2017, he was indicating to the respondent that he had money issues and that was why he was trying to get his passport and ascertain where the iPhone 4 was.

[33] The respondent levelled criticism at the applicant for failing to report the missing laptops and hard drives to the [location Z] police given the applicant alleged [Cody Wilkerson] had stolen them. He based this belief on a somewhat veiled reference from [Cody Wilkerson] in an email, where he said, "nice stack of hard drives, wink wink".

[34] I have read through the cross examination of the applicant by Mr Noble and I cannot see where he was questioned about why he failed to report the laptop and hard drives stolen from the [United Kingdom] property. That leaves a question mark in my mind, but that in itself is nowhere near sufficient to persuade me, even on the balance of probabilities, that the applicant had accessed the electronic wallets and disposed of the Litecoins himself. It is possible that the applicant may have concluded, as have I, that the evidence against [Cody Wilkerson] was too weak to warrant the making of a complaint.

[35] Certainly during 2017 the applicant was purchasing what I would regard as a significant quantity of alcohol, but the source of funds for all of that was quite transparent. His consumption of alcohol was enabled by the fact that he was earning as a [job deleted] and was receiving financial assistance from his parents.

[36] I find it inexplicable that the applicant would be complaining about a lack of funds or being in financial strife and borrowing from his parents for travel and the like, when he had access to cash funds received from the disposition of the Litecoins.

[37] For all of these reasons I am not persuaded on the balance of probabilities that the applicant accessed the electronic wallets and disposed of the Litecoins for cash.

[38] Both parties having failed to establish the allegations made against the other in respect of the Litecoins, all I am able to do is to make an order declaring that in the event that the electronic wallets can be accessed by either one of the parties, that the Litecoins are jointly and equally owned by each party. I am minded to make an order in the terms suggested by Mr Cummings in paragraph 4 of his closing submissions.

[39] Mr Noble for the respondent asked me to consider making a compensatory award in favour of the respondent pursuant to s.18C. I set out below the provisions of s.18C:

> **18C Compensation for dissipation of relationship property after separation**
>
> (1) In this section, **relevant period** has the same meaning as in section 18B.
>
> (2) If, during the relevant period, the relationship property has been materially diminished in value by the deliberate action or inaction of one spouse or partner (**party B**), the court may, for the purposes of compensating the other spouse or partner (**party A**),—
>
> (a) order party B to pay party A a sum of money:
>
> (b) order party B to transfer to party A any property, whether the property is relationship property or separate property.
>
> (3) In proceedings commenced after the death of one of the spouses or partners, this section is modified by section 86.

[40] Mr Noble submits that there has been deliberate action or inaction on the part of the applicant in relation to the Litecoins which has materially diminished the value of the relationship property pool. I accept the submission of course that the Litecoins are part of the property pool. He submits that as at the date of hearing no value can be realised from the Litecoins as the electronic wallets are unable to be accessed. He says the applicant is directly responsible for either the loss of the iPhone 4 or the disappearance of the laptop and hard drives on which the electronic wallets were stored. As such, by failing to report the loss of the laptop and hard drives to the [location Z] Police, and/or failing to take steps to ascertain where they might be, the applicant is responsible for inaction which is deliberate.

[41] In order for that argument to succeed I have to be satisfied on the balance of probabilities:

1. That the applicant did not report the loss of the laptop and hard drives to the [location Z] Police; and

2. That in failing to do so this was deliberate inaction on his part leading to the diminution in the value of the relationship property pool.

[42] I find on the balance of probabilities that the applicant failed to report the loss to the [location Z] Police. I am not satisfied on the balance of probabilities however, that the decision not to report the missing items to the police was deliberate inaction on the part of the applicant designed to diminish the value of the relationship property pool. I say this because it makes absolutely no sense, nor is there any possible explanation for the inference that the applicant did not want to realise to the greatest extent possible, his half-share of the relationship property pool. That proposition is untenable in the circumstances whereby the marriage was over and the parties were trying to liquidate their assets including the house in [the United Kingdom] and their property in [address A]. It makes no sense for the applicant to deliberately fail to report the missing items to the police to achieve that end. Accordingly, I am not satisfied on the balance of probabilities that the applicant deliberately failed to report the loss to the police in order to diminish the value of relationship property. As a result, I am not prepared to award any compensation pursuant to s.18C in favour of the respondent.

B Extent of relationship liability to [James Beck]

[43] I refer to the schedule prepared by Mr [James Beck], which appears in paragraph [19],[1] and I find that the following advances from Mr [Beck] Snr are relationship liabilities:

Date	**Amount**	**Description**
5.11.2013	$1,600	This is agreed upon by both parties as the loan concerned general help towards the [address A] property.
15.04.2014	$5,000	Advanced to enable the purchase of the [location Z] property – agreed as a loan by the respondent in her cross examination.
16.04.2014	$5,000	Advanced to enable the purchase of the [location Z] property – agreed as a loan by the respondent in her cross examination.

[1] Page 4 of the respondent's affidavit of 26 November 2018

9.03.2016	$300	Cashflow assistance. For the same reasons the respondent was prepared to acknowledge Mr [Beck] Snr's position in respect of the above loans it is my view that the same approach should be taken in respect of this amount.
7.04.2016	$2,000	Assistance to the respondent's parents to enable them to go to a trip to [location deleted] – although the respondent according to her affidavit evidence, stated that she had not heard about this loan, it was at the end of the day an advance by Mr [Beck] Snr to her own parents to assist them. I am prepared to accept that Mr [Beck] Snr advanced this money as a loan to the parties to assist the respondent's parents. It is a relationship liability.
24.10.2016	$3,900	Body Corporate Fees agreed to.
17.02.2017	$300	Top-up loan for the mortgage. Agreed to.
7.06.17	$2,420	Loan payment – agreed to.
18.07.1917	$368	The cost of a new waste disposal unit at [address A], is an item of repairs and maintenance on the home lived in by the respondent. The money was advanced by Mr [Beck] Snr to enable the repairs and maintenance to be undertaken. The cost is a relationship liability.
Total	$20,888	

[44] I am not satisfied that the expenditure on the tyres post-separation, of $260 is a relationship liability even though the vehicle was being used to transport [Tanya]. The payment of $1,210 on 7 July 2017 was the applicant's share of the mortgage payments. The respondent should not be responsible for that liability. The payment on 7 August 2917 of $1,230, again represented a payment due from the applicant

which was made by Mr [Beck] Snr. That advance is the responsibility of the applicant and should not be shared by the respondent.

C Section 18B – Claims by both parties

[45] The applicant seeks compensation by way of occupation rent and compensation for the loss of use of his share of the net sale proceeds of the [address A] property. The respondent is seeking compensation for the contributions she made by way of child care post-separation.

[46] I set out below the provisions of s.18B:

> **18B Compensation for contributions made after separation**
>
> (1) In this section, **relevant period**, in relation to a marriage, civil union, or de facto relationship, means the period after the marriage, civil union, or de facto relationship has ended (other than by the death of one of the spouses or partners) but before the date of the hearing of an application under this Act by the court of first instance.
>
> (2) If, during the relevant period, a spouse or partner (**party A**) has done anything that would have been a contribution to the marriage, civil union, or de facto relationship if the marriage, civil union, or de facto relationship had not ended, the court, if it considers it just, may for the purposes of compensating party A—
>
> (a) order the other spouse or partner (**party B**) to pay party A a sum of money:
>
> (b) order party B to transfer to party A any property, whether the property is relationship property or separate property.
>
> (3) In proceedings commenced after the death of one of the spouses or partners, this section is modified by section 86.

[47] An award of compensation under s.18B is of course a discretionary matter so that discretion should only be exercised if it is fair and just in the circumstances of each individual case. The applicant's claim for compensation is based on the following – he has foregone a higher standard of living than would otherwise have been the case during the respondent's 50 week occupation of the former family home and she has been delaying the sale of the jointly owned property in [location Z].

[48] The applicant asks me to assume that the market rental for the [address A] property would be in excess of $700 per week after costs (there is no evidence to support this submission, but I am asked effectively to take judicial notice of average market rentals in that area). Accordingly, compensation has been calculated at half the market rental ($350) for 50 weeks, total $17,500. In addition to that notional rent compensation the applicant asks for a compensatory award based on the loss of use of his half-share of the net proceeds of sale of the [address A] property from 1 February 2018 until the date of the hearing. The claim is for interest at the rate of 3 percent on his half-share ($245,000), a total of $6032.50.

[49] Dealing with the application for compensation for loss of use of his half-share of the net proceeds of sale of [address A], I reject that claim on the basis that the respondent also has been held out from her share from the net sale proceeds of the property. I am not persuaded that the responsibility for failure to settle prior to the hearing falls solely at the feet of the respondent. There is nothing in the evidence which would establish that. This is simply a matter of the parties being at odds over the Litecoins. I suspect had they been able to resolve the Litecoin issue, then the other matters would have resolved themselves very much earlier on in the piece.

[50] Both parties have suffered from lack of use of the funds and there can be no justification for giving compensation to one party but not to the other.

[51] Following a breakdown of a marriage relationship, especially when the caregiving of a young child is a factor to take into account, it is not unusual for a period of time to go by until relationship property matters are resolved. A 50-week timeframe is not significant in the overall scheme of things. It is often the case that one party is going to be less well off than other whilst they await resolution of their property affairs. The applicant seems to have been living in a number of rental properties. He has however, with the assistance of his parents, been able to undertake fairly extensive international travel. Certainly the evidence does not go so far as to establish on the balance of probabilities that his standard of living has been so low that he has been detrimentally affected. It seems, as I have commented earlier in this judgment, the applicant has continued to expend a significant amount of his funds on alcohol and the odd massage parlour.

[52] I also take into account the need for [Tanya] to have security and stability following on from the separation of her parents. Undoubtedly, she was affected by the separation. As we all know it is very important to maintain security and stability for a child following a breakdown of a relationship. It certainly was in [Tanya]'s welfare and best interests to remain living in the family home pending its sale. Her mother provided for her day to day care. I will deal with this aspect of the evidence a little later in this judgment, but the majority of the caring of [Tanya] fell on the shoulders of her mother. The respondent was not only undertaking the majority of caregiving, but she also held down a fulltime job, which obviously has some responsibility attached to it, given the remuneration she is earning. In many situations Courts have observed the importance of maintaining "a roof over the children's heads" following on from a separation. I see the situation here as relatively commonplace.

[53] In these circumstances, taking into account the factors I have just referred to above, I am not persuaded that it would be fair or just to make an award of compensation in favour of the applicant pursuant to s.18B.

[54] I now turn to the respondent's claim for compensation, based on her role as primary caregiver for [Tanya] following on from the separation in January 2017. There is no question that the care and support of a child is a post separation contribution that may be taken into account under s.18B. I was referred to the judgment of *IAT v SJG.*[2] This judgment is useful for its concise summary of the factors and principles governing compensation under s.18B. In paragraph [41] Collins J refers to the Court of Appeal judgment in *X v X*[3] [economic disparity], as His Honour says at paragraph [42]:

> [42] In *X v X* Judge Clarkson in the Family Court had declined to use s.18B to award Mrs X what would have in effect been retrospective maintenance. Robertson J endorsed this approach but in doing so said:
>
> > "It might at first blush [have been] thought desirable to utilise s.18B to award Mrs X a lump sum payment reflective of her care and support of the children. This might seem appropriate particularly when Mr X has acknowledged his obligation, and expressed a willingness to pay maintenance, but there has been no Court order to compel payment. … This is not a case in which Mrs X has been abandoned with sole

[2] *IAT v SJG* [2013] NZHC 2976, Collins J
[3] *X v X* [2010] 1 NZLR 601

> responsibility for the children, or left in a hopeless financial position by her sole care of them."

[55] Collins J refers to the report of the working group on Matrimonial Property and Family Protection which had noted that s.2(2) Matrimonial Property Act 1976 had been used by the Courts to try and reach a fair and just result on a division of relationship property where there had been post-separation conduct and contributions. The recommendation from the working group was to provide the Courts with jurisdiction to consider contributions made post-separation without having to use s.2(2) to fix different dates for the valuation of assets.

[56] Collins J provides a useful summary of matters to take into account when determining whether or not to provide the discretionary compensation that s.18B contemplates. He says in paragraph [45]:

> "[45] From *X v X* and the contemporaneous Parliamentary materials, it is clear that:
>
> (1) Section 18B of the Act should not be used as a substitute for maintenance payments that might otherwise have been made. Nor should s.18B of the Act be used as a means of compensating for the inadequacy of any maintenance payments that have been made.
>
> (2) Section 18B provides the Court with a wide discretion to compensate a spousal partner for the contributions they have made from the end of the marriage, civil union, or relationship to the date of the hearing of the application under the Act.
>
> (3) Section 18B of the Act is mechanism to compensate the spousal partner who has made a contribution and not to punish the other spouse or partner.
>
> (4) The overriding consideration is whether an award under s.18B is just."

[57] Adopting this approach, I note the persuasive argument advanced by Mr Noble that the applicant's contribution to the support of [Tanya] is minimal. The formula assessment in operation under the Child Support Act provides for him to pay something like $20 per week towards [Tanya]'s support. This quite frankly is a pittance, when one has regard to the real and actual costs of supporting a child in New Zealand (and especially in [location A]) today. $20 barely scratches the surface of the costs that [Tanya]'s mother has borne following on from the separation. But,

notwithstanding that to the be the case, is clear that s.18B must not be used as a means of compensation for the inadequacy of the child support payments made by the applicant.

[58] The period that we are examining is one that is close to three years (from 24 January 2017 to the hearing date). Mr Noble in his closing submissions calculated that during this period of time the respondent had the care of [Tanya] for approximately 313 nights in each year and the applicant, 52 nights. I have not done an analysis of how [Tanya]'s care was shared between her parents. There is some dispute about the accuracy of the table prepared by the respondent showing when [Tanya] was in the care of her father who also challenges some of the commentary provided by the respondent. Suffice it to say however, that the substantial burden of caring for [Tanya] fell on the respondent's shoulders.

[59] However, not only was [Tanya] in the care of her father, as and when the respondent agreed, but also, because of the love and generosity of the applicant's parents, they assisted in transporting [Tanya] given the respondent does not drive and took responsibility for supervising contact between [Tanya] and her father when required.

[60] This was not a situation that is in any way analogous to that faced by the Court in *Chong v Speller*[4] where the mother of the child had "sole responsibility" for a considerable period of time. Nor is the situation similar to that in *Taar v Taar*[5] where Thomas J upheld a Family Court judgment where s.18B compensation was awarded for childcare and support. In that particular case, as Mr Cummings properly submits, there were compelling factors supporting the making of a compensatory award. The post-separation contributions by the caregiver of the children significantly outweighed those of the non-caregiving parent. Mrs Taar took sole responsibility for the children with the father having a very limited role in their lives. Also Mr Taar appeared not to make any formal attempts to improve his limited relationship with the children, he failed to pay child support for something like two years, he was obstructive of the mother's efforts in preserving and maintaining relationship property and perhaps most

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[4] *Chong v Speller* [2005] NZFLR 400
[5] *Taar v Taar* [2014] NZHC 1450

tellingly, some 20 years passed, post-separation during which time the mother took pretty much sole responsibility for the children.

[61] In this case none of the compelling factors present in *Taar* are present. The applicant has throughout paid child support even though it has been at a meagre rate, he has endeavoured to increase the time that [Tanya] is in his care, and between he and his parents the relationship between [Tanya] and her paternal family has been strengthened following the separation.

[62] For the above reasons I am not satisfied that it is just or fair to make an award of compensation for childcare and support in favour of the respondent.

D Lump Sum Child Support

[63] The respondent relies on s.32(2)(c) Property (Relationships) Act 1976. This provides:

> (2) In any proceedings, the court, if it considers it just, may—
>
> …
>
> (c) make any order in relation to child support that may be made under section … 109 … of the Child Support Act 1991, as if an application had been made under … section 108 … of that Act.

[64] Section 109 Child Support Act 1991 provides as follows:

> **109 Orders for provision of child support in form of lump sum**
>
> (1) Where a receiving carer or a liable parent makes an application to the Family Court under section 108 and the court is satisfied that it would be—
>
> (a) just and equitable as regards the child, the receiving carer, and the liable parent; and
>
> (b) otherwise proper, to make an order that the liable parent pay a lump sum towards the support of the child, the court may make the order.
>
> (2) The Family Court may make either one, or both, of the following orders under this section:

(a) an order directing the respondent to pay such lump sum towards the future support of the child as the court thinks fit:

(b) an order directing the respondent to pay such lump sum towards the past support of the child as the court thinks fit.

(3) In determining the application, the court must have regard to—

(a) the formula assessment in force in relation to the child, the receiving carer, and the liable parent; and

(aa) any determination in force under Part 5A, or 6A, or 6B in relation to the child, the receiving carer, and the liable parent; and

(b) any order in force under section 106 in relation to the child, the receiving carer, and the liable parent; and

(c) the matters mentioned in section 105(4) and (5); and

(d) the relationship between any lump sum order and any liability to pay child support under a formula assessment, as determined in accordance with section 110.

(4) The court may have regard to other matters beyond those specified in subsection (3).

[65] Because of the provisions of s.32(2) Property (Relationships) Act, it is not necessary in this instance for the receiving carer (respondent) to make an application under s.108 Child Support Act.

[66] Whether or not to make a lump sum order for the provision of child support is the exercise of discretion. As the section provides, before making any form of lump sum order I need to be satisfied it would be just and equitable as regards [Tanya], the respondent and the applicant, and otherwise proper to make a lump sum order towards [Tanya]'s future support. As subs (3) provides there are a number of factors I must have regard to. Those factors are not limited to those set out in subs (3). I may have regard to other matters as specifically provided in subs (4).

[67] The facts relevant to the considerations set out in s.109 are these:

1. The child support presently being paid by the applicant is a relatively miniscule amount and it falls far short of an amount that would represent half the costs associated with supporting [Tanya].

2. The applicant, prior to the breakdown in the marriage, had a successful career in [the corporate world] and on his own evidence, he was earning a more than adequate income.

3. As a result of his depression and I am satisfied abuse of alcohol and drugs, coupled with the breakdown of the marriage, the applicant has been prevented from resuming his career in the [corporate world]. With the assistance of his father he works as a [job deleted]. His income has fluctuated, especially so since he has embarked upon a project which he hopes will lead to bigger and better things if it comes to fruition. He anticipates that if all goes to plan his income will increase in the future and he will be able to provide a greater contribution towards [Tanya]'s support than he currently can. Mention was made in the applicant's evidence of an earlier desire to obtain some tertiary qualification and also to turn his hand to writing. None of those events have transpired.

4. My assessment of the applicant in the witness box, is that he is still quite fragile and accordingly vulnerable. Whilst his goal to increase his income is admirable, I am not so certain that he has the emotional wherewithal to achieve those goals in the short term. Whilst he has sought some therapeutic assistance my view is that he needs to do more work on himself to come to terms with what has happened in his life. As such, his current vulnerability impacts on his ability to achieve his full income earning potential.

5. The respondent, notwithstanding her role as primary caregiver for [Tanya], has managed to retain a good position earning in excess of $80,000 per annum. Given the costs of supporting [Tanya] are not shared equally between the parents, the respondent shares the greater burden financially at least, in supporting the child.

6. It is the respondent's intention to utilise her share of the sale proceeds of [address A] coupled with her share of the proceeds of the sale of the property in [location Z], towards acquiring a home for herself and

[Tanya]. It is important to note that the respondent resides with a partner. There is no evidence before me as to her partner's ability to assist in the purchase of a dwelling, nor do I have any evidence as to how they currently share the cost of their accommodation.

[68] I am required to have regard to matters set out in s.105(4) and (5) of the Child Support Act. I set these out below:

105 Matters as to which court must be satisfied before making order

…

(4) In determining whether it would be just and equitable as regards the child, a receiving carer, and the liable parent to make a particular order of the type specified in section 106, the court shall have regard to—

(a) the objects of this Act, and, in particular, the nature of the duty of a parent to maintain a child and the fact that it is the parents of a child themselves who have the primary duty to maintain the child; and

(b) the proper needs of the child, having regard to—

(i) the manner in which the child is being, and in which the parents expect the child to be, cared for, educated, or trained; and

(ii) any special needs of the child; and

(c) the income, earning capacity, property, and financial resources of the child; and

(d) the income, earning capacity, property, and financial resources of each parent who is a party to the proceeding; and

(e) the commitments of each parent who is a party to the proceeding that are necessary to enable the parent to support—

(i) himself or herself; or

(ii) any other child or another person that the parent has a duty to maintain; and

(f) the direct and indirect costs incurred by the receiving carer in providing care for the child, including the income and earning capacity foregone by the receiving carer in providing that care; and

(g) any hardship that would be caused to—

(i) the child or the receiving carer by the making of, or the refusal to make, the order; or

(ii) the liable parent, or any other child or another person that the liable parent has a duty to support, by the making of, or the refusal to make, the order.

(5) In having regard to the income, earning capacity, property, and financial resources of the child or a parent of the child, the court must—

(a) have regard to the capacity of the child or parent to earn or derive income, including having regard to any assets of, under the control of, or held for the benefit of, the child or parent that do not produce, but are capable of producing, income; and

(b) disregard the income, earning capacity, property, and financial resources of any person who does not have a duty to maintain the child, or who has such a duty but is not a party to the proceeding, unless, in the special circumstances of the case, the court considers that it is appropriate to have regard to them.

(6) The court may have regard to other matters beyond those specified in subsections (4) and (5).

[69] I have gained some assistance from a judgment of Judge Robinson in *B v B*[6] which addressed the relevant factors that need to be taken into account when determining whether or not to exercise the discretion to award lump sum future child support. In that particular case the parents of a five year old child separated and the father returned to his homeland, Switzerland, where he lived permanently with a new partner. Since the separation the child lived solely with the mother and the father was assessed under the Child Support Act to pay $165 per month.

[70] The mother sought an order under s.109 requiring the father to pay a lump sum towards the support of the child. The Judge was satisfied that the child support amount of $165 per month was considerably less than one-half of the amount required to support the child. As in the present case, the parties were litigating the issue of division of relationship property and the mother had given evidence that she wished to obtain lump sum child support to assist her in acquiring a new home from her half-share of the sale proceeds of the former family home. Judge Robinson said:[7]

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[6] *B v B* [1997] NZFLR 687

[7] At page 692

> I accept that there is no evidence in the present case to establish that the respondent has deliberately reduced his income to avoid a formula assessment. However whilst it is appropriate to exercise the discretion under s.109 in those cases where the liable parent has been evading his or her responsibility to provide child support at a rate consistent with liability under the Child Support Act 1991, the discretion is by no means limited to those types of cases. It is significant that while the discretion to depart from the formula assessment is limited by the Child Support Act 1991 to cases where there are "special circumstances … the discretion to order lump sum payments is not limited in this way but can be invoked in cases where it is
>
> > "(a) just inequitable as regards the child the qualifying custodian and the liable parent; and
> >
> > (b) otherwise proper."
>
> Thus the exercise of the discretion under s.109 to order lump sum payment of child support is not limited to those cases which are special nor can there be any justification as suggested by counsel for the respondent to limit the exercise of such discretion to those cases such as *Fong v Fong* [1993] NZFLR 574 where there have been difficulties in recovering adequate child support from the liable parent."

[71] Taking the same approach as Judge Robinson I turn first to the provisions of s.109(3) which incorporates a consideration of the matters mentioned in s.105(4) s.105(5) of the Act.

[72] I am concerned that in the event the current project being worked on by the applicant fails to get off the ground, the applicant may revert back to work [for his father] and thus receive a relatively low income. He may also, given his expressed desire to do so, commence international travel again, especially if he has access, which he will do, to his share of the sale proceeds of relationship property. Should that happen then it is possible that with no assets in New Zealand and no income in New Zealand, the applicant may not be able to meet his obligation under any child support assessment. I can have regard to this possibility by virtue of the provisions of s.109(4).

[73] Turning to s.105(4)(b) I have already found that the contribution presently being made by the applicant towards the support of [Tanya] falls far short of being an equal contribution towards the child's proper needs to be cared for, educated and trained. I am not aware of any special needs that [Tanya] may have. Having regard to subs (4)(c) [Tanya] has no income earning capacity or property or financial resources of her own. In terms of subs (4)(d) I have made findings above in respect of the income earning capacity, property and financial resources of each of the parents

and I have made findings in relation to the relevant commitments each party has or will have as a result of the division of relationship property and the sale proceeds of the [location Z] property.

[74] I have found pursuant to subs 4(f) that the direct and indirect costs incurred by the respondent are of course to provide a roof over her head and that of [Tanya]. Fortuitously for the respondent she has not had to forego any income or earning capacity as a result of providing that care. Having regard to subs 4(g) the evidence does not establish that any hardship has been caused or would be caused to the child or the respondent by my refusing to make a lump sum order. By the same token, the evidence does not satisfy me on the balance of probabilities that the applicant will suffer any hardship should he be ordered to pay child support in a lump sum. In fact given the uncertainty in his ongoing income it may very well be of a benefit to him to be relieved of the periodic payment of child support by the making of a lump sum award.

[75] Having observed that there is no evidence as to hardship for the respondent in the event that I refuse to make a lump sum order, I am very mindful of the cost of purchasing real estate in [location A]. It seems rather obvious to me that a half-share of the sale proceeds of the [location Z] property coupled with a half-share of the net sale proceeds of the former family home will be insufficient in themselves without the raising of a mortgage to enable the respondent to acquire a home for herself and the child. It stands to reason therefore that if the respondent does receive child support by way of a lump sum that will in turn reduce the amount of mortgage that will have to be raised in order for her to acquire her own home.

[76] Turning to s.105(5) there is no evidence before me that identifies any of the matters provided for there. As I mentioned earlier the issue of mortgage borrowings is a factor I can take into account under s.105(6).

[77] The need for the caregiver to provide accommodation for the child is a matter that influenced Judge Robinson in *B v B* (supra) when making an order for lump sum child support. In that particular case His Honour noted the applicant had the responsibility of full time care for the child and that she would not have sufficient

capital, taking into account her share in relationship property, to provide all the funds necessary to acquire suitable accommodation for herself and the child, hence her proposal to apply the capital she received by way of lump sum child support towards the purchase of the home. His Honour found that to be a relevant factor in establishing the grounds for the making of an order requiring child support to be paid in the form of a lump sum and noted that it was quite appropriate for lump sum child support to be applied towards providing accommodation for the child. He found that it was just and equitable as regards the child, the receiving carer and the liable parent, to make an order for lump sum child support in full and final satisfaction of the respondent father's obligation to provide child support for what he said was "the foreseeable future".

[78] I too am satisfied that in this particular case the respondent has made out the grounds for the exercise of my discretion to make a lump sum order for future child support, taking account of all the matters set out in s.109.

[79] I am not deterred from making a lump sum order by Mr Cummings submissions that this would create an unhelpful precedent. The research provided by counsel and my own reading demonstrates that there are many situations that have arisen where Courts have made lump sum orders for future child support. I concede immediately that there are not many that have arisen in respect of proceedings under the Property (Relationships) Act, but the whole purpose of s.32(2) is to avoid the need, which had been the case, for parties to bring separate proceedings under the Child Support Act. The whole purpose of providing the Family Court with the jurisdiction to make these sort of orders in Property (Relationships) Act proceedings, is not only to recognise changes in parties financial circumstances resulting from the division of property following a separation of the parties, but also to avoid the need for extended litigation under various other statutes.

[80] In any event, it is appropriate given that the applicant is going to receive a relatively significant sum of money as a result of the property proceedings, that a fresh look be taken at his obligation to contribute more than just the formula assessment requires him to do in respect of the support of his daughter.

[81] The question that requires careful consideration however, is the quantum of the lump sum payment and whether that calculation should be approached on the basis that it reflects the applicant's future liability up until [Tanya] reaches the age of 18.

[82] Mr Noble urges me to fix the quantum of the applicant's contribution towards [Tanya]'s support at $150 per week, which he says will still only partially meet her proper needs and that this should continue through until [Tanya] turns 18.

[83] Mr Cummings referred me to Westlaw and commentary on the jurisdiction to make lump sum child support orders. In that commentary there is reference to the judgment of Priestley J in *Hammond v Hardy*[8] where the Court was considering the jurisdiction under s.32(2) of the Property (Relationships) Act and some of the issues around the making of lump sum orders. His Honour made it clear at paragraph [103] where child support is the subject of a formula assessment under the Child Support Act, a Court was not able to:

> "[103] Step outside the provisions of that stature and pluck a discretionary figure … s.109 of the Child Support Act and in particular s.109(3) set out matters which a Court must consider in respect of an application for lump sum child support …
>
> [104] The effect of these provisions … is almost certainly to limit a lump sum award, in all but the most unusual circumstances, to a capitalisation of the formula assessment in any given financial year."

[84] It seems to me in the light of this approach which was the same approach taken by Judge Robinson in *B v B* (supra), the calculation of lump sum future child support had to be on the basis of the current formula assessment. I am unable, therefore, to adopt a notional sum of $150 per week as Mr Noble submits.

[85] Because of the inadequate contribution being made by the applicant under the present formula assessment, a lump sum payment of child support based on that assessment through until [Tanya] turns 18, only amounts to some $11,000. If I made such an order, it is going to be of little benefit to the respondent in assisting her to acquire a new property and it is likely to impact negatively on the respondent in the future because one would hope in the overall scheme of things, the applicant will be

[8] *Hammond v Hardy* [2007] NZFLR 910

able to recover from the impact of the negative events in his life over the last few years, enabling him to function in a well-paid job or in a successful business thus leading him to make a more meaningful and significant contribution to his daughter's support.

[86] I have decided to take what is an unusual course of action. The respondent is to have the option of continuing to take periodic payments of child support as assessed from time to time (possibly subject to an application for departure from formula assessment) if the grounds exist in the future for that, or adopt lump sum future child support in the sum of $11,000.

E Adjustments

[87] First, I make brief reference to the applicant's account with the [bank deleted]. I am satisfied that he has taken genuine steps to endeavour to gain access to that bank account in order to provide evidence as to its balance. All I can do is to make an order that the applicant will continue to use his best endeavours to identify the sum of money in his [bank] account as at the date of separation and upon receipt of whatever funds are in that account he is to account to the respondent for one-half.

[88] Secondly, so far as the applicant's KiwiSaver account is concerned, he is to account to the respondent for half of the sum of $3941.

[89] The respondent is to account to the applicant for half the balance as at the date of separation in her [bank] account which appears to be NZ$3321.18 and an adjustment must be made to share equally the balance in the [bank name and account number deleted], the joint account of the parties, which was closed at separation, unless the balance in that account has already been shared equally or utilised to reduce any relationship liability owed at the date of separation.

[90] An adjustment is to be made in respect of each credit card debit balance as at the date of separation.

[91] An adjustment is to be made from the funds held in respect of the sale of the former family home to satisfy the debt to [James Beck] as I have fixed it in this judgment. The other monies owing to [James Beck] are declared to be a personal liability of the applicant to his father.

[92] In the event that the respondent elects to take lump sum child support in terms of this judgment, the amount of $11,000 is to be paid from the applicant's share of the net proceeds of sale of the family home to the respondent and upon that payment, pursuant to s.110 Child Support Act, the lump sum order shall be credited against the applicant's liability to pay child support order under any relevant formula assessment as 100 percent of the annual rate of child support payable in each year (s.110(3)(b)), until [Tanya] attains the age of 18 years.

F [Location Z] Property

[93] Mr Cummings urges me to make an order that each party is entitled to share equally in the net sale proceeds of the property in [location Z]. As I mentioned earlier in this judgment, there is a conditional offer in place for the sale of this property for a sum of a little under NZ$190,000. Mr Cummings submits that I can make an order in respect of the sale proceeds of the property because the sale proceeds are movables, unlike the real estate itself which is of course an immovable and not subject to the jurisdiction of the Property (Relationships) Act.

[94] Mr Noble counters that argument by submitting that as at the date of hearing there are no sale proceeds to be made subject to any order of this Court. The agreement for sale is not unconditional and I cannot make an order in respect of proceeds of sale which do not at this time exist.

[95] I agree with Mr Noble's submissions. I only have jurisdiction to make orders in respect of assets existing as at the date of hearing. That is well settled law. There are no proceeds of sale of the [location Z] property as at the date of hearing.

[96] As an alternative argument Mr Cummings asks me to make an order that a sum of money be retained by a stakeholder from the net sale proceeds of the former family

home pending the settlement of the sale of the [location Z] property. I am attracted to this proposition as there is probably jurisdiction to make such an order given the wide discretion contained in ss.33 and 34 of the Act. Had I any doubts that the respondent was genuine in her desire to achieve a settlement and receive her share of the sale proceeds of the [location Z] property, then I would make such an order. However, I accept the respondent's evidence that she does not intend to go back to [the United Kingdom] to live and that she needs to receive her share of the sale of the [location Z] property in order to assist her in purchasing a home for herself and [Tanya] in New Zealand. I do not believe it necessary to impose some sort of incentive on the parties by withholding funds to which they might otherwise be entitled. Accordingly, I decline to make any order withholding any portion of the funds due to both parties as a result of this judgment.

Costs

[97] Both parties have been partially successful in these proceedings. More importantly, neither party has succeeded in their claim against the other in respect of the Litecoins, which was a major impediment to settlement being reached, I suspect.

[98] In all the circumstances of this case it is not appropriate for me to consider making any costs orders against either party. I do however reserve leave for either party to apply for further orders or directions to better implement this judgment.

ORDERS

1. Subject to the following orders, all property is to be shared equally between the parties and all relationship liabilities are to be shared equally

2. The net sale proceeds of the [address A] property are to be disbursed forthwith and shared equally between the parties' subject to the adjustments necessary as a result of this judgment

3. The Litecoins owned by the parties are declared to be owned jointly and equally by the parties. Both parties are to continue to use their best endeavours to gain access to the digital wallets in which the Litecoins are held. If either party or their agent at any time is able to access the Litecoins, in whole or in part, they are to notify forthwith the other party and provide that party with all the information they hold and to appoint a stakeholder to attend to all that is necessary to maximise the value to the two parties and to realise the sale or other disposition for value of the Litecoins.

4. The sum of $20,888 owing to [James Beck] is declared to be a relationship liability and is to be settled from the net sale proceeds of the [address A] property before the division of the remaining balance to the parties. The balance of funds owed to Mr [Beck] Senior are declared to be the personal liability of the applicant.

5. The applicant is to continue to use his best endeavours to provide documentary evidence as to the balance in his [bank] account as at date of separation. Upon provision of that documentation, the funds which are hereby declared to be relationship property are to be withdrawn and divided equally between the parties.

6. Upon disbursement of the funds from the sale of [address A], adjustments are to be made in terms of my rulings in paragraphs [88] to [90] above.

7. Within 14 days of the date of delivery of this judgment the Respondent has the right to elect, in writing by notice to the applicant's counsel, to accept $11,000 as lump sum future child support. In that event, the applicant is to pay, forthwith, $11,000 to the respondent from his share of the sale proceeds of the [address A] property. That sum of money shall, pursuant to s.110 Child Support Act, be credited against the applicant's liability to pay child support under any relevant formula

assessment as 100 percent of the annual rate of child support payable in each year (s.110(3)(b)), until [Tanya] attains the age of 18 years.

8. I reserve leave for either party to apply on 21 days' notice for further orders or directions to better implement this judgment.

Signed at Auckland this 9th day of December 2019 at am / pm

L J Ryan
Family Court Judge