

The Duration of the Marriage: When Does it Begin and End?

Hamish Dunlop

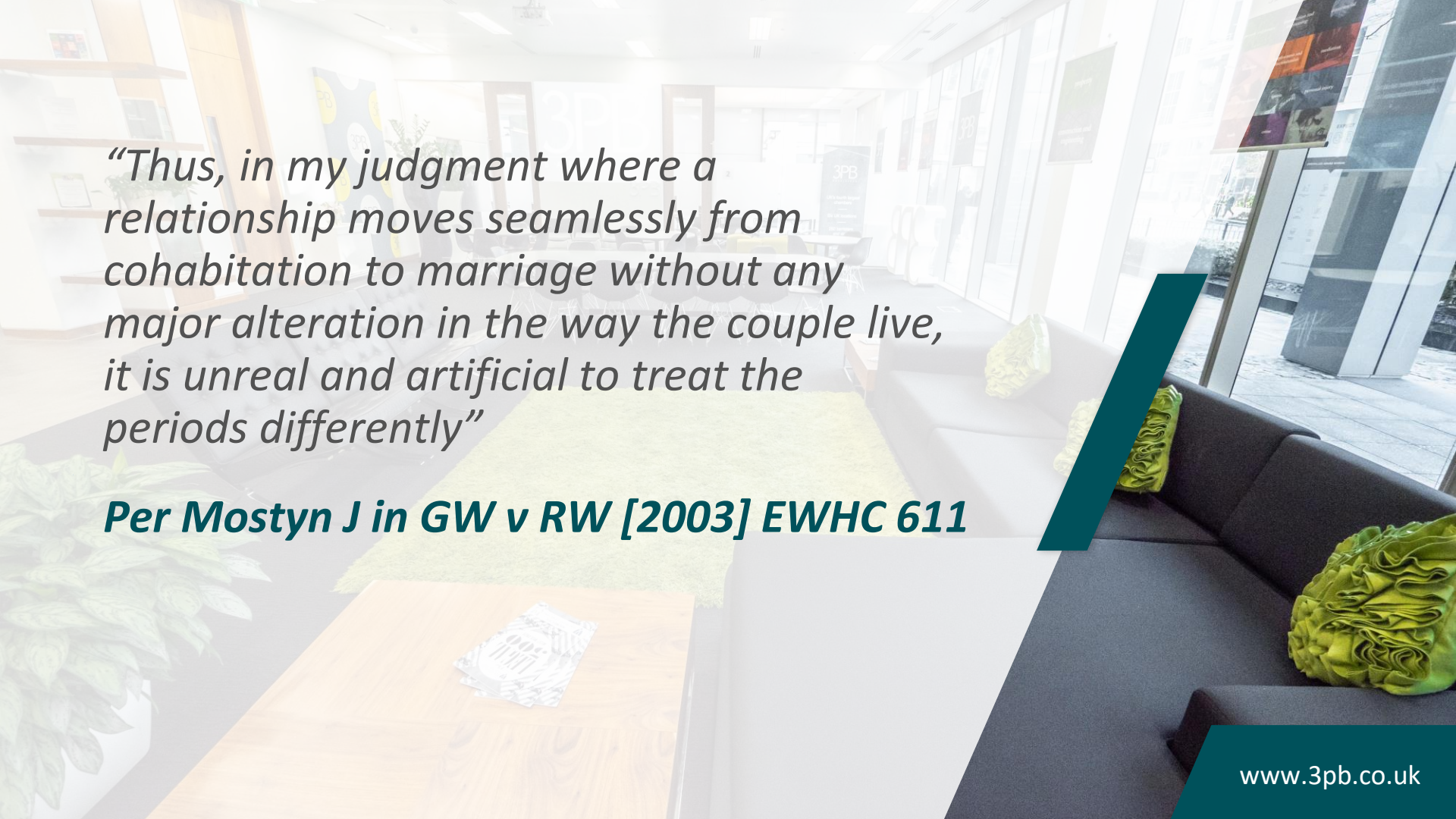
Agenda

- Pre-marital Cohabitation
- Separation & the End
- What is a Short Marriage?
- Valuation of Assets



Background

- Duration (s.25(2)(d) MCA).
- Short Marriages
- Identifying matrimonial and non-matrimonial assets.

A modern office interior with a grey sofa, a wooden coffee table, and large windows. The sofa has several bright green ruffled cushions. A wooden coffee table is in the foreground with a small white object on it. Large windows on the right side of the room offer a view of the outside. The text is overlaid on the left side of the image.

“Thus, in my judgment where a relationship moves seamlessly from cohabitation to marriage without any major alteration in the way the couple live, it is unreal and artificial to treat the periods differently”

Per Mostyn J in GW v RW [2003] EWHC 611

Cohabitation: cases

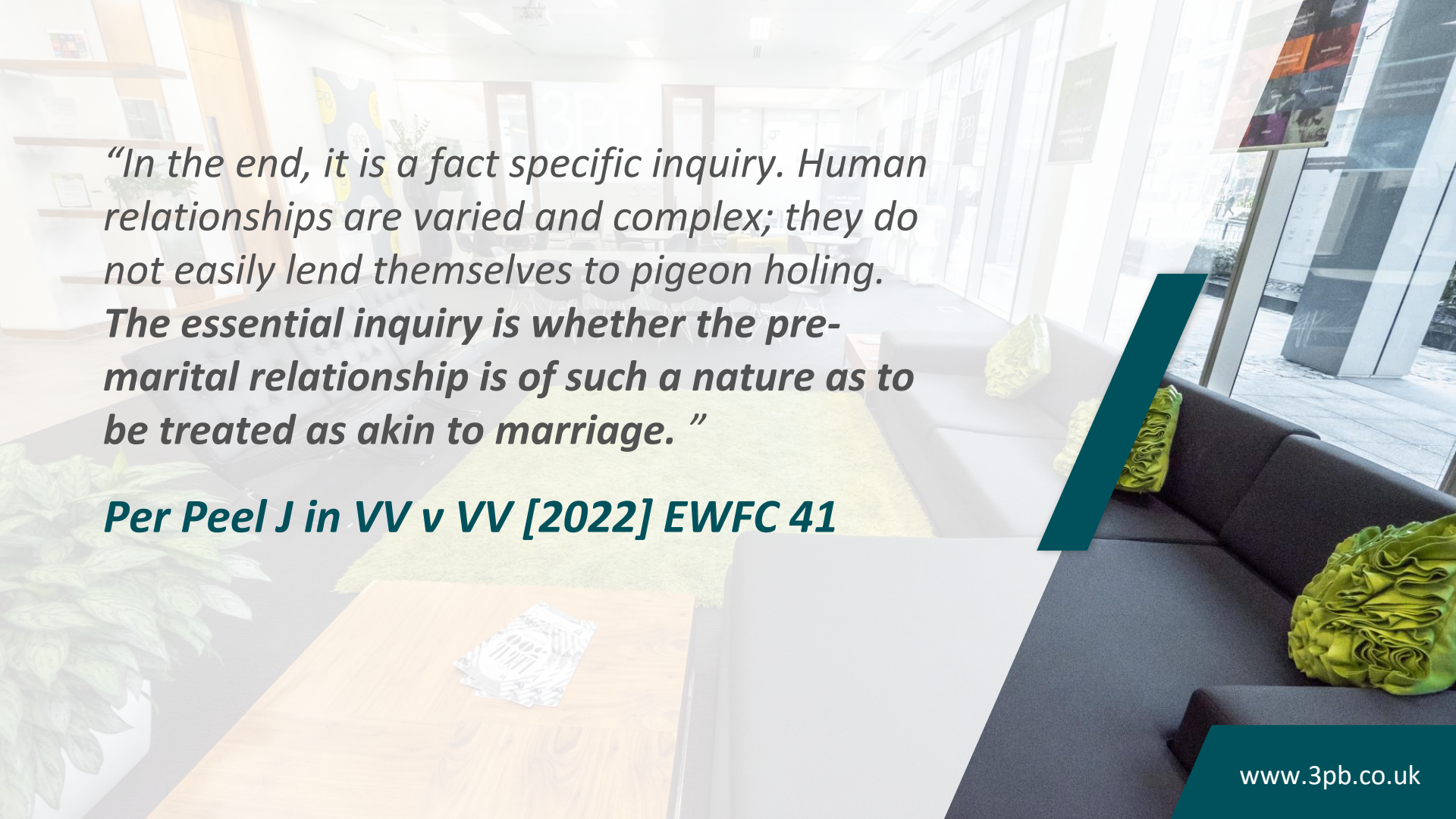
- McCartney v Mills McCartney [2008] EWHC 401
- IX v IY [2018] EWHC 3053
(ref: Kimber v Kimber [2000] 1FLR 383)
- E v L [2021] EWFC 60
- VV v VV [2022] EWFC 41

Kimber v Kimber

- Are the parties living together in the same household?
- Does living together involve a sharing of daily tasks and duties?
- Is there a stability and permanence in the relationship?
- Are the financial affairs of the couple indicative of their relationship?
- Is there a sexual relationship?
- What is the relationship between the parties and children who are not theirs?
- How is the relationship presented publicly?
- What would the opinion of a reasonable person with normal perceptions be of the relationship?

Cohabitation: Principles

- Engagement per se is ignored
- Normally (but not necessarily) living together
- Analysis derived from 'markers':
 - Sex
 - Money
 - Intentions & Quality
 - Commitment
 - Mutual Support



“In the end, it is a fact specific inquiry. Human relationships are varied and complex; they do not easily lend themselves to pigeon holing. The essential inquiry is whether the pre-marital relationship is of such a nature as to be treated as akin to marriage. ”

Per Peel J in VV v VV [2022] EWFC 41

Separation and the End

- (H v H (Financial Provision: Capital Allowance) (1993) 2 FLR 335).
- MB v EB ([2019] EWHC 1649) with ref to IX v IY
- *‘That analysis can be applied to an attempt to define the date of the end of the marriage as much to its commencement.’*

What is a Short Marriage?

- Dictionary of Financial Remedies 2022 at p.32
- No reference in MCA.
- Inappropriate to be too precise.
- 3 years is properly characterised as short; but see table in handout.
- Ultimately, it is a broad assessment.

Calculation of Assets

- Thorpe LJ in *Cowan v Cowan* [2002] Fam 97 at [70].
- Mostyn J in *E v L*

'In my experience convention and tradition dictate that save in cases where there has been undue delay between the separation and the placing of the matter for trial before the court, the end date for the purposes of calculation of the acquest should be the date of trial'.

VV v VV [2022] EWFC 41: Conduct

- March 2018 ... Parties Meet.
- August 2018 ... H offered job at ABL.
- August 2019 ... H acquires 1.6M units in ABL [\$0.42]
- November 2019 ... Parties Cohabit.
- 25th Jan 2020 ... Parties Marry.
- June 2020 ... Parties Separate.
- Spring 2021 ... ABL listed publicly [\$450-\$700] [\$315-490M]

It's time for Questions & Answers

Questions Welcome

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