



Matrimonial Proceedings and Property Act 1970

1970 CHAPTER 45

PART I

PROVISIONS WITH RESPECT TO ANCILLARY AND OTHER RELIEF IN MATRIMONIAL CAUSES AND TO CERTAIN OTHER MATRIMONIAL PROCEEDINGS

A avoidance of transactions intended to defeat certain claims

16 Avoidance of transactions intended to defeat certain claims

- (1) Where proceedings for relief under any of the relevant provisions of this Act (hereafter in this section referred to as " financial provision ") are brought by a person (hereafter in this section referred to as " the applicant ") against any other person (hereafter in this section referred to as " the other party "), the court may, on an application by the applicant—
- (a) if it is satisfied that the other party is, with the intention of defeating the claim for financial provision, about to make any disposition or to transfer out of the jurisdiction or otherwise deal with any property, make such order as it thinks fit for restraining the other party from so doing or otherwise for protecting the claim;
 - (b) if it is satisfied that the other party has, with the intention aforesaid, made a disposition to which this paragraph applies and that if the disposition were set aside financial provision or different financial provision would be granted to the applicant, make an order setting aside the disposition and give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payment or the disposal of any property);
 - (c) if it is satisfied, in a case where an order under the relevant provisions of this Act has been obtained by the applicant against the other party, that the other party has, with the intention aforesaid, made a disposition to which

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 this paragraph applies, make such an order and give such directions as are mentioned in paragraph (b) above;

and an application for the purposes of paragraph (b) above shall be made in the proceedings for the financial provision in question.

- (2) Paragraphs (b) and (c) of subsection (1) above apply respectively to any disposition made by the other party (whether before or after the commencement of the proceedings for financial provision), not being a disposition made for valuable consideration (other than marriage) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any such intention as aforesaid on the part of the other party.
- (3) Where an application is made under this section with respect to a disposition which took place less than three years before the date of the application or to a disposition or other dealing with property which is about to take place and the court is satisfied—
- (a) in a case falling within subsection (1)(a) or (b) above, that the disposition or other dealing would (apart from this section) have the consequence, or
 - (b) in a case falling within subsection (1)(c) above, that the disposition has had the consequence,

of defeating the applicant's claim for financial provision, it shall be presumed, unless the contrary is shown, that the other party disposed of the property with the intention aforesaid or, as the case may be, is, with that intention, about to dispose of or deal with the property.

- (4) In this section—

 " disposition " does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise ;

 " the relevant provisions of this Act " means any of the provisions of the following enactments, that is to say, sections 1, 2, 3, 4, 6, 9 (except subsection (6)) and 14 of this Act;

and any reference to defeating an applicant's claim for financial provision is a reference to preventing financial provision from being granted to the applicant, or to the applicant for the benefit of a child of the family, or reducing the amount of any financial provision which might be so granted, or frustrating or impeding the enforcement of any order which might be or has been made at the instance of the applicant under the relevant provisions of this Act.

- (5) The provisions of this section shall not apply to a disposition made more than three years before the commencement of this Act.