Case No: B4/2011/1594

Neutral Citation Number: [2011] EWCA Civ 1611
IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE PRINCIPAL REGISTRY
OF THE FAMILY DIVISION
HIS HONOUR JUDGE COMPSTON

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21 December 2011

Before :

LORD JUSTICE PATTEN
LORD JUSTICE MUNBY
and
LORD JUSTICE TOMLINSON

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In the Matter of A and L (Children)

- -

Ms Alison Ball QC and Mr Rohan Ramdas-Harsia (instructed by Cook Taylor) for the appellant (mother)
Mr Stephen Bellamy QC and Miss Helen Soffa (instructed by local authority) for the local authority
Mr Anthony Hayden QC and Mr Tim Hussein (instructed by H E Thomas) for the father
Mr Bernard Huber (of Edwards Duthie) for the children's guardian

Hearing dates : 18 October 2011, 2 December 2011

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Judgment

Lord Justice Munby :

1. This is an appeal, pursuant to permission granted by Black LJ on 10 October 2011, from a judgment of His Honour Judge Compston in the Principal Registry of the Family Division on Friday 27 May 2011. The judge was conducting a fact-finding hearing in the course of ongoing care proceedings relating to two children, A, a girl, born in May 2003, and her brother, L, born in October 2006.

2. So far as material for present purposes the judge found that both A, in particular, and to a lesser extent L had been sexually abused by one or more of three adults, two men, X and Y, and a woman, Z, who were friends of their mother and who he referred to in his judgment as "the gang of three." He found that the mother was involved.

3. The mother now appeals, represented by Ms Alison Ball QC and Mr Rohan Ramdas-Harsia, who had appeared for her before Judge Compston. The appeal is resisted both by the local authority, represented by Mr Stephen Bellamy QC (who did not appear before the judge) and Miss Helen Soffa (who did), and by the father, represented before us, as before the judge, by Mr Anthony Hayden QC and Mr Tim Hussein. The guardian, here, as below, is represented by Mr Bernard Huber. Although initially the guardian's stance was neutral, she now joins the other respondents in resisting the appeal.

4. Before exploring how Ms Ball puts her case, it is necessary to understand the context. The local authority's case in relation to the mother was based upon allegations of neglect, physical abuse and sexual abuse. Although the children had made allegations of inappropriate sexual activity by the father and the two grandmothers this formed no part of the local authority's case. In relation to sexual abuse it sought findings only in relation to X, Y and Z and the mother. The case against the father was that he had failed to protect the children against the mother's neglect of their physical care and been unable to provide it himself or to take practical responsibility for providing the children with basic physical and emotional care.

5. In addition to seeking a finding that A had been physically abused by X, Y and Z and by her mother, the local authority's case was that there was no other explanation for A's allegations than that she had witnessed sexual activity and experienced sexual abuse. It sought findings that the children had been exposed to inappropriate sexual behaviour; that A had been sexually interfered with by X, Y and Z; that A had been sexually interfered with by her mother; and that X had put his penis in A's mouth. Particulars, which there is no need to rehearse, were given of all these allegations. It may be noted that the local authority's case, accepted by the judge, was that when A in her ABE interview (see below) referred to her "daddy" this was in fact a reference to X and not to her father.

6. In relation to the alleged sexual abuse, the mother's case before the judge was put in the alternative: the children were not abused, the allegations stemming from knowledge A had acquired watching pornographic videos and from the emotional trauma of separation; alternatively, and if there had been sexual abuse, this was by non-family adults, the mother did not know it had occurred and the abuse was "at the lower level."

7. The hearing before Judge Compston lasted for some eight days, during which he heard from eight witnesses, including the mother and the father but not X, Y or Z, viewed two ABE video interviews of A, and considered extensive written material. This part of the hearing concluded on Thursday 26 May 2011. The judge invited written submissions from all parties, including the guardian. They were lodged before the hearing resumed the following morning and ran in total to some 30 pages. In addition to these materials there was a very detailed 27 page analysis by Ms Ball of the evolution of the allegations of sexual abuse.

8. The oral submissions finished at about 12.30 and at 2.30 Judge Compston began to deliver an extempore judgment. It runs to 15½ pages of double-spaced transcript. At the end of his judgment the judge invited counsel to raise "any particular point which any of you think I have got wrong or you think I should cover". Mr Hayden, Miss Soffa and Mr Huber each did so. Ms Ball did not.

9. Judge Compston exonerated the children's father so far as the sexual abuse was concerned, and likewise exonerated the children's two grandmothers. He exonerated the father in relation to the allegations of neglect. He made findings against the mother in relation to both neglect and physical abuse. In her notice of appeal the mother explicitly confines her appeal to Judge Compston's findings in relation to the sexual abuse. So I need say no more about these other matters. For present purposes what I need to focus upon are the judge's findings in relation to sexual abuse.

10. The judge agreed with the guardian that a brief exposure to pornography was not sufficient to explain A's account: "we must face the fact that she must have been exposed to a more direct experience of sexual behaviour probably by … 'the gang of three'." He continued:

> "Sexual abuse, did it happen at all? Is it all in A's imagination? I have to say … I have little doubt that something happened. The point is this: Who was responsible for it? Was it the members of the gang of three? Was the mother aware or not aware?"

Later he expressed himself as "quite certain" that A had witnessed sexual activity and that she had herself experienced sexual abuse. "The point though", he said, "is by whom?"

11. In addition to the two ABE interviews, the judge had the very detailed notes kept by the children's foster carers. In many respects the judge was critical of the foster carers. They were, he said, "way out of their depth" though they had tried to do their best. But importantly he found, and in my judgment was entitled to find, that they were conscientious and, in particular, that they accurately recorded anything which A said about sexual matters.

12. The judge acknowledged that the two ABE interviews differed. In the first, A said nothing of any great moment; the second, he said, was much different. In relation to the crucial second ABE interview, the judge made four findings:

    i) First, he found that the interview was properly conducted.

ii) Second, he found that A was "speaking quite naturally" and "telling her tale in a genuine way." She did not seem to be cowed or inadequate in giving her account.

iii) Third, he found that "some" of the things A said were "plainly wrong and were fantasies" and that some of her tale was "plainly not possible."

iv) Fourth, he was impressed by the amount of detail in what A was saying and the fact that it went beyond mere allegations.

13. This last point is, in my judgment, central to the outcome of this appeal, so I should set out exactly what the judge said:

> "I should say this also that there was an awful lot of detail and that, to my mind, certainly matters. Sometimes in cases like this, and sometimes in criminal cases, one just gets one phrase, 'He touched my fanny,' or, 'He pulled my willy'. Just one. That is much harder, but in this particular case, we have very much more …
>
> However, what did come across … were not just allegations. For example:
>
> > 'Were you on the settee?' 'Yes'.
> >
> > 'How did Mummy put her private on your face?' "She was laying down, then she got up,' etc etc.
> >
> > 'Did Mummy have clothes on?' 'Yes.'
> >
> > 'What did it feel like?' 'Sickness. It feels disgusting.'
> >
> > 'Tell me why it feels disgusting?' 'Because it smells.'
> >
> > 'It smells. Okay, what did it smell of?' Answer: 'Her body.'
> >
> > Question: 'Can you tell me what it felt like?' 'It felt, what do you mean?'
> >
> > Question: 'Well how did it feel? Did it feel like skin? Did it feel like hair? Did it feel like clothes? How did it feel?' Answer: 'It felt like skin'.
>
> I mention that because it seems to me that that is sufficiently cogent to show that something must have happened and it is not just a question of all imagination and having picked it up from conversation. Something must have happened."

I should add that the words quoted by the judge are extracted from an account which runs over several pages of the transcript of the ABE interview.

14. The judge gave other examples of the same point, some derived from the ABE interview, others from the foster carers' notes. Having quoted various accounts A had given the foster carers about X and Z, he said:

> "I am certain that something on these lines did happen, though I am not necessarily … convinced that all the details, vis à vis which individual, are necessarily right. It seems to me that there is too much graphic information here to say that it is just in the mind."

He referred to an account which A had given the foster carers of how (I quote only the central part of A's account) X "took all his clothes off & he's [sic] pants & he took his privates & put it in my mouth & and he got me to bend down." He continued: "that incident is so graphic and detailed that I am satisfied there that that did actually happen. Also that it happened to young L." On the same topic he referred to that part of the second ABE interview where, speaking of her "daddy", who the judge took to be not her father but X, A had said that he put his dinkle on her face (previously in the same interview she had said he had put it in her mouth), that it felt disgusting, that he had done it ten times, that he had smacked his dinkle and that it had a bruise.

15. Finally, and this time relating to the mother, the judge referred to accounts that A had given the foster carers: on one occasion "mummy done bad things to me"; on another occasion, "[Z] touched my private area & it tickled & mummy watched & she laughed. [X] done it as well & he showed me his privates & he tried to get me to touch it but I said no I don't want to do that." He said: "The court has got to face up to this. Is it just imagination so far as A is concerned or did it actually happen?"

16. As against all that, it is important to note a very striking example of fantasy to which the judge drew attention. The foster carers' notes record A telling them of an incident which, as she described it, the judge found to be an occasion when the mother and X were having sex together in circumstances where A was able to see it. A was recorded as saying "[X]'s got a willy and I bite it and cut it off with a [sic] scissors." The judge said: "That seems to me a very typical fantasy which one does find in children, but it does not undermine my conclusion that they were having intercourse and she saw it."

17. It is also important to note that the judge found as a fact that what he called the foster carers' "distaste, disgust [and] hostility to and for the parents" was "drip-fed" to the children and that this "could" be some explanation as to "why" A made her allegations not merely about others but also about her mother and father.

18. The judge's conclusions in relation to the mother were expressed as follows:

> "I have thought long and hard about this, but I do, reluctantly, conclude as follows: You have a mother who was inadequate, undoubtedly vulnerable, depressed and lonely. Her friends, the gang of three, I have no doubt, manipulated her and relaxed her into thinking this sort of behaviour was alright. Therefore, she went along with it and cooperated with it.
>
> I go on to say that my finding and feeling for the mother is that she is not essentially a perverted or a bad woman. She had just

> got in a very sad hole at that particular time and had no one to help her to dig herself out of that hole.
>
> Therefore, sadly, I have to come down to this. 'Mummy put her privates on my face'. Later … telling the foster carer, 'My Mummy done bad things to me'.
>
> Something like that did happen and I find the mother was involved."

19. He added:

> "My findings, therefore, so far as the mother is concerned, I have put her mitigation, but for the reasons already given, I find that, substantially, the sexual abuse case is made out.
>
> Undoubtedly, A was seriously abused, by the mother's friends at the time and sadly, the mother, not quite as badly as her friends, was involved in the sexual abuse of her daughter …
>
> I am … certain that, normally speaking, the mother in a proper situation, a reasonably happy situation (ie when she is not depressed or particularly lonely) would not have been a party to this. However, sadly, to my mind, she was."

20. Implicit in the judge's findings against the mother was his rejection of her evidence that she was not involved and knew nothing of what was going on. But this was not the only matter on which the judge rejected her evidence. Thus, he did not accept her denial that her own mother had warned her against the gang of three: "I am quite certain that that did take place." And he rejected her assertion that the gang of three were never alone with the children. "I just do not accept that."

21. As recorded in the Appendix to the judgment we handed down on 27 October 2011 (see below), the parties agreed certain matters before us, including these:

> "A had plainly gained a knowledge of sexual matters entirely beyond what would be expected of a girl of her age. A had never displayed such knowledge in the past and had never exhibited sexualised behaviour;
>
> During the time her parents were together, A's school, which she attended regularly, had never expressed any concerns of a sexual nature;
>
> She (the mother) considered that A's sexual knowledge had arisen post separation and must therefore have been gained either in the period when she (the mother) was solely responsible for her care or during her time in foster care."

22. It is to be noted that all this reflected admissions that the mother had made to Judge Compston in the course of her cross-examination by Mr Hayden. We have been taken through the relevant parts of the transcript of her evidence but there is no need for me

to set them out, except to record three answers she gave. The first, in answer to Judge Compston's question, "You would not expect her to have this knowledge?" was "No, I would not." The second was "What I see her describing is that she has seen something." The third was her answer "Yes" to a question from Mr Hayden: "something has happened for her to have the sexual knowledge that she plainly shows. Do you agree?"

23. It is also noteworthy that, in answer to questions from Mr Huber about the incident I have referred to in paragraph [16] above, the mother accepted that there was no way the foster carers could have known that X was her boyfriend unless A had told them, just as she accepted that A had told them what she had seen.

24. The mother's grounds of appeal identify her central complaint as being that the judgment, so far as it related to the finding that she was directly involved in the sexual abuse of her children and aware that others were abusing them, was wholly deficient in its reasoning and analysis; provided no sufficient explanation for the basis of the findings; made no findings as to the mother's credibility; failed to record what are described as her firm and consistent denial of her involvement; and failed to address or examine the reliability of A's allegations in terms of a number of factors that were then set out.

25. The grounds of appeal identify a large number of more specific complaints, such as (I do not list them all) that the judge, having found that it was likely that opportunities existed for the children to be abused by X, Y and Z in the absence of the mother, failed to explain or provide any reasoning for his finding that the mother was involved; that he failed to attach any weight to the fact that, following their removal from the family, the children had been living in an environment hostile to the parents; that he failed to take any account of the way in which the allegations had evolved as set out in Ms Ball's analysis; that there was no corroboration for A's allegations; that the judge failed to attach sufficient weight to the father's acceptance that A may have seen adult pornography; that he gave no reasons for exonerating the father who, Ms Ball says, was implicated by A in her second ABE interview; that he gave no explanation as to how he reached the conclusion that L had been abused; and that he failed to observe or consider the significance of what Ms Ball calls the stark difference between A's manner and presentation at the two ABE interviews.

26. The grounds of appeal conclude with the assertion that what were said to be the deficiencies in the judgment are "too extensive" to be corrected in accordance with *English v Emery Reimbold & Strick Ltd* [2002] EWCA Civ 605, [2002] 1 WLR 2409, and *Re B (Appeal: Lack of Reasons)* [2003] EWCA Civ 881, [2003] 2 FLR 1035. It is seemingly for this reason that, as I have mentioned, nothing was said at the time in response to Judge Compston's invitation after he had given judgment.

27. The mother's case was elaborated by Ms Ball in her skeleton argument and orally. She readily accepted the difficulties inherent in trying to persuade this court to overturn a judge's findings of fact. For that reason she focused on what she said were the grave deficiencies in Judge Compston's reasoning. I need not go through all her submissions in detail. She complains that the judge never evaluated the significance of the foster carers' antipathy to the parents; that he failed adequately to grapple with the striking fact that in the first ABE interview, carried out less than three months after the children went into foster care, A did not allege any sexual abuse whatever;

that he simply ignored the fact that an allegation of gross sexual abuse made by A to the foster carers a few days prior to the first ABE interview was never referred to by her in either ABE interview; that he exonerated the grandmothers even though L had made an allegation against one of them which included a reference to her "privates" and how "it stink" (precisely the kind of detail which, as Ms Ball points out, the judge had found so significant in relation to his findings against the mother); that he never reminded himself of the need for caution and care before accepting hearsay evidence; that he failed to evaluate A's credibility notwithstanding her numerous lies and exaggerations; and that he made no findings as to the mother's credibility. He simply made, she says, an unacceptable and unreasoned leap from finding her to be inadequate to finding her to be an abuser – and all this notwithstanding her adamant denials.

28. Ms Ball also made various submissions seeking to exploit the fact that the judge had exonerated the father. However, in large part these were based on the assumption – rejected by the judge – that A's references to "daddy" in the second ABE interview were to her father when, as the judge found, they were actually to X.[1]

29. When giving the mother permission to appeal on the papers, Black LJ said "The judge's task was a complex one". She explained why. She continued:

> "There appears to be some strength in the argument that the trial judge needed to deal with issues such as this in some depth in order to explain why he was persuaded of the truth of the allegations he found proved in relation to the mother … It is arguable that his analysis of such issues was too superficial."

30. The appeal came on for hearing before us on 18 October 2011. We canvassed with counsel whether this was not a case where the interests of justice, fairness to all the parties and, indeed, fairness to Judge Compston, all required that we remit the case to him, with an invitation to provide such further reasons as he might think appropriate by way of elucidation, clarification, elaboration or otherwise of his judgment of 27 May 2011. Having taken instructions from their respective clients, counsel agreed. We accordingly directed that, in the meantime, the appeal be adjourned part heard, to be resumed before the same constitution once Judge Compston's response was to hand: *Re A and L (Children)* [2011] EWCA Civ 1205.

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[1] This judgment was sent to the parties in draft in the usual way. Ms Ball asked for this paragraph, and paragraphs [5], [14] and [42], to be reconsidered with a view to correcting the statement that Judge Compston had found that A's reference to "daddy" was in fact to X. Ms Ball submits that in fact the judge made no such finding. This is, with respect to Ms Ball, little more than semantic quibbling. It is absolutely clear from the paragraph in his judgment which I refer to in paragraph [14] that Judge Compston attributed to X the acts which in the ABE interview A had ascribed to "daddy". The precise form of words does not matter: Judge Compston quite plainly found, held, proceeded on the basis, or whatever form of words one prefers, that X did these acts, that it was X who did them. True it is that Judge Compston did not in so many words say 'I find that when A referred to her "daddy" this was in fact a reference to X' but he did not need to, for that was necessarily implicit in what he did say. Ms Ball's real point is that there was what she calls "confusion" in the judge's mind arising because of the way in which the local authority had put its submissions. I do not accept that there was any such confusion and nothing that Ms Ball says suggests there was. As I say in paragraph [42], the judge was entitled to find that "daddy" here referred to X.

31. We emphasised that in formulating these issues, and remitting the matter to Judge Compston, we were not to be taken as expressing any view, one way or the other, on the merits or otherwise of the mother's grounds of appeal or of her complaints about his judgment. Nor was the course we were proposing to be understood as reflecting a view that his findings as set out in the judgment are unsustainable.

32. In the event, and for reasons unconnected with this case, it has not been possible for Judge Compston to give us this assistance. The hearing of the appeal accordingly resumed before us on 2 December 2011.

33. As Ms Ball's argument developed, it became clear that the ambit of the appeal was limited. Ms Ball, rightly and realistically in my judgment, did not seek to challenge the judge's findings in relation to the sexual abuse perpetrated by X, Y and Z. So we proceed on the basis that the children were abused. Nor, although it had been suggested in the grounds of appeal that the findings against the mother of sexual abuse were plainly wrong, did Ms Ball dispute that there was evidence on which it was open to the judge to make such findings. Again, in my judgment, that concession was appropriately made. The appeal, in other words, comes down to a challenge to the judge's reasoning and a challenge to the adequacy of the reasons he gave.

34. There are two principles in play here. The first is that explained by Lord Hoffmann in *Piglowska v Piglowski* [1999] 1 WLR 1360, 1372. So far as concerns a judge's approach to a case and his reasoning his "reasons should be read on the assumption that, unless he has demonstrated the contrary, the judge knew how he should perform his functions and which matters he should take into account." An appellate court, Lord Hoffmann continued, "should resist the temptation to subvert the principle that they should not substitute their own discretion for that of the judge by a narrow textual analysis which enables them to claim that he misdirected himself."

35. The other principle, relating to the adequacy of a judge's expressed reasons, is that explained by Lord Phillips of Matravers MR in *English v Emery Reimbold & Strick Ltd* [2002] EWCA Civ 605, [2002] 1 WLR 2409, paras [17]-[21]. For present purposes it suffices to refer to how Thorpe LJ put it in *Re B (Appeal: Lack of Reasons)* [2003] ECA Civ 881, [2003] 2 FLR 1035, para [11]:

> "the essential test is: does the judgment sufficiently explain what the judge has found and what he has concluded as well as the process of reasoning by which he has arrived at his findings, and then his conclusions?"

Thorpe LJ had previously observed that one should not ignore the "seniority and experience" of the particular judge, the "huge virtue in brevity of judgment", and that the "more experienced the judge the more likely it is that he may display the virtue of brevity." I should add that there is no obligation for a judge to go on and give, as it were, reasons for his reasons

36. Mr Bellamy and Mr Hayden made common cause. They submit that there was overwhelming evidence that the children had been sexually abused and evidence on which it was open to the judge to find as he did in relation to the mother's involvement. They accept that the judgment was relatively brief, and, indeed, as Mr Bellamy puts it, that it appears on first reading to be sparse in its forensic analysis.

But, they submit, it is clear from the judgment that this very experienced family judge had in mind and under consideration all the matters raised by Ms Ball in her submissions. His conclusions on the facts, when analysed and examined against the evidence, are, they say, entirely justified and adequately reasoned. They are, says Mr Hayden, if sometimes rather tersely expressed, rooted in an evidential foundation. It is, says Mr Bellamy, quite incredible that such an experienced judge, who had just received both written and oral submissions, did not have in mind all the various matters of which Ms Ball now seeks to make complaint. Moreover this was, they say, a typical fact finding hearing, raising issues typical of many of the cases with which this very experienced judge will have been very familiar down the years. Insofar as it had unusual, though as they stress far from unique, features, the judge was well aware of them.

37. Judge Compston, as they point out, was well aware of the florid and inaccurate or inconsistent allegations made by A. The question he had to grapple with, they say, was whether she was an unreliable historian of either the sexual abuse or the perpetrators. They submit that the judge was entitled to conclude on the totality of the evidence that she was not. He, after all, had seen her give her account in the ABE interviews, and therefore had a good insight into her levels of understanding and functioning. He was well able to evaluate whether and to what extent what she was saying was truthful and reliable. Moreover, they say, he had heard the mother give evidence, and that evidence, particularly in cross-examination, was illuminating.

38. In short, they submit, Judge Compston was entitled to conclude as he did and for the reasons he gave. And his reasons, if brief, were adequate.

39. I agree.

40. I have summarised the key stages in the judge's analysis as he set them out in his judgment. His reasoning is sufficiently clear. It is apparent from his findings that he found A to be credible on the key allegations and that he disbelieved the mother despite her strong denials. He was conscious of the fact, and drew attention to it, that parts of A's account were plainly wrong, plainly not possible, and indeed fantasies. He was conscious of the fact, and drew attention to it, that the two ABE interviews differed. He was also conscious of the fact, and again drew attention to it, that the foster carers were hostile to the parents and that the drip-feeding of this antipathy to the children could be an explanation of *why* – I emphasise why; why is not the same as how – A came to make her allegations. So it is apparent that he was appropriately cautious in approaching what she was saying. But what struck him in particular was the amount of detail that A was able to give and, very importantly as it seems to me, the fact that her account contained telling accounts of *touch* and *smell* – not something that a child would pick up from playground talk or from *seeing* pornography.

41. Judge Compston did not find the mother credible; he found the details of A's account to be telling, despite what he called her "very typical" child fantasies. And his humane, understanding and sympathetic account of the mother's various difficulties explains in part why he was able to find that she had done things one would not normally expect a mother to do. It was on that basis, as I read his judgment, that Judge Compston reasoned his way to his ultimate conclusion. And that, in my judgment, was an entirely acceptable chain of reasoning and, moreover, a chain of reasoning which is adequately set out in his judgment.

42. I do not accept that there is any inconsistency or inadequacy of reasoning in relation to Judge Compston's exoneration of the father and the grandmothers. The context is important. No allegations of any relevant kind were being made by any of the parties against either the father or the grandmothers. So as a matter of law they were entitled to be exonerated. And, quite apart from that, what was crucial at the end of the day was what A was saying about her mother, not what L may have said about his grandmother. Moreover, and as I have pointed out, much of the sting of Ms Ball's case insofar as it is based upon what is said to have been the judge's differential treatment of A's accounts of what her mother and her "daddy" had done to her evaporates once it is accepted, as the judge found and as he was entitled to find, that "daddy" here referred not to A's father but to X.

43. The fact that Judge Compston did not deal in his judgment with every matter to which Ms Ball draws attention does not of itself invalidate either his reasoning or his conclusions.

44. I should add that Judge Compston recorded in his judgment how he was most grateful to Ms Ball for the various schedules she had produced.

45. Despite everything Ms Ball has pressed upon us I remain entirely unpersuaded that there is any sustainable basis of challenge either to Judge Compston's conclusions or to his process of reasoning or to the adequacy of his judgment. Were we to interfere we would be doing the very thing that as Lord Hoffmann has explained we must not do.

46. There are two final observations that need to be made.

47. As Mr Hayden pointed out, Judge Compston found himself faced with the dilemma, familiar to any family judge, of adjourning to prepare a written judgment, with all the further delays that might cause, or delivering an immediate extempore judgment so that plans for the children could be moved forward with minimal delay. He submits, and I agree, that such extempore judgments should not be discouraged. On the contrary. The safeguard is the ability – indeed the duty – of the parties to seek further elaboration or explanation from the judge if they feel that something is missing.

48. Thorpe LJ has emphasised the virtue of brevity. It would be worse than unfortunate if the impression were to gain ground that experienced judges who have the gift of brevity should be deterred from displaying it by an inappropriate readiness on the part of appellate courts to interfere.

49. For these reasons this appeal must, in my judgment, be dismissed.

Lord Justice Tomlinson :

50. I agree.

Lord Justice Patten :

51. I also agree.