

## **CORRIS v CORRIS 1997 (2) SA 930 (W)**

### **Headnote : Kopnota**

Any custody order made by a Court is in itself an act of clairvoyance. No one can spell the future nor does a Court imagine it can. Hence the caution about joint custody orders. A Court is presented with evidence of the past and current situation, and a custody order is made on that evidence, experience, probability and in hope. Such an order anticipates continuance or change, but never permanence. Life is risk. Should circumstances change, parties are at liberty to approach the Court for a variation. This they do, and not infrequently. (At 934C--D/E.)

In a divorce action in a Local Division the parties sought an order for the joint custody of the two minor children, daughters, born of their marriage and aged eight and six-and-a-half years. The parties had entered into an agreement providing for such joint custody and recording that they were agreed that each of them was properly equipped, qualified, desirous and capable of fulfilling the functions and roles of a custodian parent; that it was their wish that such joint custody should be awarded and that they were motivated thereto by their desire to serve the best interests of the children. The Family Advocate pointed out that the parties had been living apart for over a year and that joint custody of their children had been working well, that they had agreed on consultation with a professional person as mediator in the event of any dispute arising between them and that the parties appeared to be mature, sensible and reasonable people. The Family Advocate accordingly offered no objection to the granting of joint custody.

*Held*, after reviewing the authorities, that the parties had considered the matter; they loved their children; they wanted the best for them and believed the best was that they should share their custody. (At 934E.)

*Held*, further, that the risk of future disagreement between the parents was not necessarily greater where an award of joint custody has been made. (At 934G.)

*Held*, accordingly, that a decree of divorce should be granted incorporating the deed of settlement providing for joint custody of the children (with certain deletions from the agreement). (At 935E--F.)