Divorce Lawyer Explains section 114 Orders – Restraining Travel to Enforce Property Settlements

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A divorce lawyer explains how the Family Court can impose restrictions on travel to ensure compliance with Family Court Orders.

In accordance with section 114 of the *Family Law Act*, the Family Court has the power to restrain a person from leaving Australia pending compliance with Family Court Orders, including final orders.

The Court will consider the following:

1. A person's freedom of movement, and
2. The likelihood that the Order will not be complied with if the paying party's freedom to leave the country is not restrained.

Ultimately, the Judge is faced with a balancing exercise and will consider whether the person's compliance with the Orders outweighs their personal freedom of movement.

Example: *Rahman v Rahman*

In the 2012 decision of *Rahman v Rahman*, the husband was Ordered to pay to the wife a sum of $377,000 and was restrained by injunction from leaving Australia until he complied with that Order.

To ensure he did not leave Australia, he was Ordered to hand in his passports to the Court and was placed on the Australian Federal Police watchlist.

The husband appealed the final Orders. His Appeal was dismissed.

In 2020, the husband's divorce lawyer was heard on a further application regarding the 2012 Orders again claiming that the Orders significantly impeded his freedom of movement.

Judge Rees rejected the husband's argument that given he has not made any payments to the wife over the 8 years that the "the Court should simply "give up" and allow him to travel." If he was permitted to travel he would have no incentive to comply with the original Orders. The husband's application was ultimately dismissed.

For advice about enforcing your property Orders contact a divorce lawyer on 1800 300 170 or email us at famlaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.