Recent Family Court Case Sheds Light on What Initial Contributions are Really Worth?

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On 1 May 2020, the Family Court handed down the decision of *Barnell & Barnell*. This matter involved a wife's separation lawyer seeking to appeal a final judgment based on the Court's treatment of the husband's initial contributions.

The husband purchased Property B in 1988 prior to the commencement of the relationship in 1995. While no valuation was conducted on the property as at the commencement of cohabitation, the current value was agreed to be $340,000.

Given the length of the relationship and consistent gifts of money from the wife's parents, the wife's separation lawyer argued that the overall contributions of the parties should be considered equal. The Judge disagreed and said that to do so, would be to give insufficient weight to the fact that Property B was unencumbered at the commencement of the relationship and has not since been improved by either party. As the value of Property B represented some 36% of the net property pool, the Judge held that the husband's contribution must be accorded significant weight. The Judge made an assessment of contributions as 62.5% to the husband and 37.5% to the wife being a 25% difference in contributions to reflect the various contributions of both parties.

With the assistance of a separation lawyer, the wife appealed the final judgment and argued that his Honour erred by:

1. Failing to correctly apply principles relevant to the assessment of contributions;
2. In arriving at a 25% differential between the husband and wife in the assessment of contributions, giving too much weight to the initial contribution of the husband and too little weight to the myriad of contributions of the wife over the course of the parties' lengthy relationship.

The wife argued that her wage earning, homemaking and parenting, mutual support and her capital contributions via significant gifts from her parents, were each substantial indirect contributions to the conservation of the property.

The Court was persuaded by the wife's arguments and found that the primary Judge had made an error by giving discrete consideration to the husband's initial contribution of Property B.

The matter was remitted back for rehearing.

For advice about how you can protect your initial contributions contact us 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.