Family Law Lawyer advice on the effect of death on property proceedings

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The law often deals with unforeseen events in the course of Court proceedings under the Family Law Act. If the other party in your proceedings dies before property proceedings are completed, then your family lawyer will inform you of Section 79(8) of the Family Law Act.

The Court will look to this section if in your case, the other party (your ex-spouse) passes before property related proceedings are completed. It is important to know that under the relevant section of the statute (79(8)(a)) any proceedings which have commenced by a family law lawyer before the person passes can be continued by or against the personal representative of a deceased party. This appointed representative would then continue the case on the deceased's behalf. The Court may make the property order it would have made had the deceased party not died, and only if the court deems it appropriate to do so. Such a property order would still be enforceable by or against the estate of the deceased party. The Court considers the appropriateness of an order to be made after the passing of one of the parties according to the case of *Erdem & Ossay.* If you are worried about the state of your own health or that of the other party it is advised that you inform your Family Law Lawyer as soon as possible in order for your legal representative to make necessary arrangements and decisions in your case.

It is important to know that your rights and/or obligations within your personal legal matter will likely be unchanged in any such event.

For advice about your family property proceedings contact a Family Law 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.