Family Violence and Your Property Settlement Agreement

Date : December 5, 2018

At the end of a relationship, couples are often faced with the issue of dividing their property. Due to the emotional nature of relationship breakdown, this task often proves tricky for even the best of couples. Where the couple is unable to come to an agreement, the *Family Law Act 1975 (Cth)* empowers the Court to make a property settlement agreement that it considers appropriate. In coming to a property settlement agreement, the Court considers financial and non-financial contributions to the relationship and the future needs of the parties. The conduct of the parties is generally not a relevant consideration.

Kennon and Kennon- A Case where the Court has taken into account poor behaviour by a party to the relationship in determining a property settlement agreement. In the case of *Kennon*, the Full Court of the Family Court suggested that domestic violence **may** be a factor that a Court can take into account when deciding what each spouse is entitled to in a property split up.

The Court decided that where there has been violent conduct by one spouse towards the other spouse and where this conduct has had:

1. a significant adverse impact upon a party's ability to contribute to the family, or
2. has made those contributions significantly more arduous,

The Court may make a property adjustment against the offending spouse in favour of the other spouse.

Decided cases that have been successful in applying this principle, have generally been able to prove an evidentiary link between the violence and its impact on the ability to contribute.

The Courts do emphasise that this entitlement to an adjustment for "poor behaviour" would only apply in very limited circumstances, or a narrow band of cases.

For more information about a Property Settlement Agreement, click here.

For advice about negotiating a Property Settlement Agreement contact us on 1800 300 170 or email us at familylaw@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.