

PROPERTY SETTLEMENT IN A SHORT MARRIAGE

The shorter the length of a marriage, the closer the examination of the parties' relevant 'financial contributions' in a property settlement will be, particularly if there are no children involved. The Court will specifically look at significant initial contributions, as well as financial contributions during the marriage, when deciding the property division.

In a situation where one partner has made all the initial contributions in a short marriage – how does the Court make adjustments for the contributions made by the other partner?

There is no fixed percentage adjustment for non-financial and financial contributions, this will depend on the circumstances of the marriage. However, a recent case has noted that even though a general rate of contribution adjustment of between 5% and 7.5% has been made in short marriage cases, the outcome of these adjustments will be significantly different depending on the size of the property pool. The Court emphasised in a recent case that the dollar value of the adjustments should be considered, as a 5% adjustment of a large property pool could be worth more than a 7% adjustment of a smaller property pool.

HOW HAS THE COURT PREVIOUSLY WEIGHTED THE CONTRIBUTIONS IN SHORT MARRIAGES?

- 6 ½ years of cohabitation with a property pool of \$3 million – the Husband made substantial initial contributions, while the Wife made no initial contributions and used her income for her own purposes. There were no children of the relationship and her contribution in the marriage was that of a homemaker. As a result 7.5% contribution adjustment was made for the Wife.
- 6 year marriage with a property pool of \$10 million. The Wife received a 5% adjustment for her financial contributions in the marriage.
- 4 year marriage with all property acquired before the relationship. The Husband had property valued at \$3 million and the Wife had property valued at \$117,000. The Court made a contribution based adjustment in favour of the Wife of 10% of the Husband's property, as well as keeping all of her property.
- The Court recently discussed these previous cases where adjustments were made in short marriages and then decided whether an adjustment should be made in the following case:
- **THE FACTS:**
 - The Husband aged, 61 and the Wife, aged 50 lived together for 1 year before they were married for 6 years.
 - The Wife was from the Philippines and after she had lived together with the Husband in Australia for 1 year, she returned to the Philippines to obtain a spouse visa for permanent residence in Australia.
 - The couple was married in the Philippines and then the Husband returned to Australia. The Wife returned 7 months later and lived with the Husband for 5 years before they separated.

- The Husband and Wife had a property pool of \$1.35 million. The Husband proposed that he receive 90% of the pool, however the Wife proposed that he receive 80% of the pool and she receive 20%.
- The Husband contributed all the initial contribution of the marriage. When the couple commenced living together, the Husband was the owner of 3 properties which they later sold. The proceeds of one of the properties were used to buy their joint property valued at \$510,000.
- The Husband claimed that the Wife used her income for her own purposes and gambled away significant amounts of money.
- The Husband also stated that she did not do any house work. However, the Wife also argued that the Husband did no house work.
- **COURT FOUND:**
- The Court was not satisfied that either of the Husband's or Wife's versions was correct and did not make any adjustment based on 'post-separation' contributions, after the relationship.
- Taking into account previous contribution adjustments in other cases, the Court found the rate of adjustment was between 5% and 7.5%, however the Judge noted that the property pool was greater than some of the previous cases.
- **COURT ORDER:**
- The Wife received a 5% adjustment (\$77,500) for 'future needs' because of the disparity in capital positions and 10% for 'non-financial and financial contributions.'
- The Wife received a total of 15% of the property pool, while the Husband receive 85%.