

IMPACT OF DOMESTIC VIOLENCE IN A PROPERTY SETTLEMENT

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Where there has been domestic violence in a relationship, it is possible to argue that there should be a percentage adjustment for property settlement to the spouse who has experienced domestic violence. This is particularly so where the violence effects in a significant and adverse way that parties' ability to contribute to the relationship or otherwise makes their contribution significantly more arduous. This is commonly referred to as a "*Kennon argument*".



This argument was recently raised in a matter before the Family Court. In that case it was accepted by the Judge that over a 42 year marriage the wife had been subjected to controlling and coercive behaviour, denigration and even physical assault on the part of her husband. However, the wife in that case admitted in her evidence before the court, that despite this behaviour she performed her roles within the marriage freely and without inhibition. The Judge found therefore that there had been domestic violence, but because he could not find evidence of it impeding the wife's functioning and contributions during the marriage, it was not a factor that would increase her entitlement.

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