

WHO GETS THE RING?

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Who gets to keep the engagement ring? It can be significant. When Mariah Carey and James Packer broke off their engagement, a few years ago, the singer sold her 35-carat diamond ring for \$2.7 million. But what happens when the average couple split?

In Mr Packer's case, he reportedly told friends he "wants his ring back" but instead the expensive bling ended up as part of the financial settlement between the celebrity pair.

Under Australian Law, a person can no longer sue for damages linked to social or economic loss arising out of a "breach of a promise to marry", but this doesn't apply to gifts, like an engagement ring. If a couple have been together and meet the definition of a defacto relationship the ring will be property and divided according to the property division principles in the Family Law Act. But this article will look at the situation where it is not a defacto relationship, just a gift.

In a recent NSW case, a man gave his fiancée a \$15,250 engagement ring. However, 10 days later, she called off the engagement saying, "the wedding is off, here take the ring, I don't want it." She then removed the ring and put it on the coffee table in front of him.

He said to her, "I don't want the ring it is a gift to you, you can keep it."

By the end of the following month, the woman decided to throw out everything her former fiancée had given her and a box of possessions, including the ring, went in the bin.

When her ex-partner found out, he began proceedings for compensation.

The court found that in this case, an engagement ring was a "conditional gift" given to someone on the condition that they will get married. When they failed to do so, it must be returned unless there is legal justification not to. She was found liable for the cost of the ring and ordered to pay compensation.

The court found:

1. If a person, who has received a ring in contemplation of marriage, refuses to fulfil the conditions of the gift, they must return the ring.
2. If a the person giving the ring refuses to carry out their promise of marriage, without legal justification, they cannot demand the return of the ring.
3. It is irrelevant whether the denial of the promise turns out to benefit both parties.
4. If the engagement is ended by mutual consent, then in the absence of any agreement, the engagement ring and similar gifts must be returned by each party to the other.
5. It may be possible for the party who receives the ring to raise 'legal justification' for refusal to carry out their promise of marriage if there is 'repudiatory' conduct on the giving party, such as violence or an affair, in which case it may be possible for the recipient to keep the ring.

But what happens when you're already married? In that case, the Family Law Act applies and the engagement ring is classed as property and is added into the property pool available for distribution between the parties.

Who gets the ring will then depend on:

- The value of the engagement ring and the total value of the property pool.
- The length of the relationship and/or marriage.
- The financial and non-financial contributions made by each party during the relationship.
- Each party's future needs as they emerge from the relationship following separation.

The value of the engagement ring for the purposes of settlement is the current second hand value, which is often much lower than the purchase price. Given the sentimental value of engagement rings generally, they are typically excluded from the property settlement negotiations.

However if either party does raise the issue of the ring, it's dealt with in the property settlement on a case by case basis.

For example, in a 2013 case, the wife sought to retain the proceeds of the sale of her engagement ring which was originally purchased for \$170,000. The ring was sold for \$70,000 which was used towards payment of the legal fees and her general living expenses.

And in a 2012 case, the husband and wife split after a year and a half of marriage, with the wife's engagement ring worth \$15,000. In that case, the parties agreed that the wife would return her engagement ring and this would be considered part of the husband's share of the asset pool.