

Antippa Lawyers

since 1961

MATRIMONIAL

Foreword:

This is a simplified brochure as to how the family law courts work. This brochure does not explain Divorce.

Divorce will require a separate application. This brochure is about asking the court for orders about your children and about property or assets.

ANTIPPA LAWYERS can guide you with the details.



DIVISION OF THE FAMILY LAW COURTS?

The Federal Circuit and Family Court of Australia is divided into 2 divisions. Division 1 involves difficult law, such as child abduction and international property law.

Division 2 is for most family law disputes.



HOW DOES THE COURT MAKE ITS DECISION?

Even if you and your partner agree as to what should happen, the court may not agree.

In parenting matters, the court is primarily interested in what it believes is in the best interest of the children.

In property matters, the court is primarily concerned with what is just and equitable.

Property means assets: house, car, T.V., jewellery & tea cups.

HOW MUCH WILL THE COURT GIVE ME?

The Court considers 9 different factors in its determination as to what you should get.

1. The asset pool

The asset pool is the total dollar amount of everything which each of the parties own. The court does not look at whose name the item is in.

It does not look at who has control of that item or who lives in that house. The asset pool is the total assets less the total liabilities. The large items are assessed by independent valuation, if values are not agreed. This is a mathematical addition of the value of your car plus her house less the home loan plus your super, etc.

2. Financial contributions

Each party brought money, cash, shares, properties, etc into the relationship which were used to buy or to improve assets.

3. Contributions by others

Inheritance, gifts, loans, use of other financial resources.

4. Non-financial contributions

Use your financial or non-financial resources to directly or indirect buy, preserve or improve a building.

5. Financial resources

For example, the person who does your ironing for you or cleans your swimming pool. This factor also relates to having the benefit of income from a family trust or other supply of money.

6. Home-maker and parent – welfare of family

Use of your own labour to advance the relationship, e.g. driving the children to school, home duties, gardening, cooking & cleaning, washing, supervising homework; home improvements, painting, renovations, building a deck or swimming pool.

7. Income earning ability (section 75(2) factors)

Health problems which inhibit income earning capacity, serious medical procedure required; level of education, training or experience or time out of work-force which may inhibit being re-employed or from income earning.

8. Add-back

Any money taken out from the asset pool, such as for legal costs or other purchases along the way is added back to the asset pool.

9. Just & equitable

A general consideration of factors, beginning at the 50% each point before any adjustments are considered.

OVERALL

We are not trying to make this more complicated than what it needs to be. We are trying to explain the law to you in simple terms.

When you prepare a draft of your Affidavit, it is important to address these factors which the court considers in making its determination.

FURTHER READING

<http://www.antippa.com.au>

<https://www.fcfcoa.gov.au>

Antippa Lawyers
Room 3, Level 5, 2 Collins Street,
Melbourne Vic
(03) 9650 2115
lawyers@antippa.com.au
www.antippa.com.au

The information provided is of a general nature only. You should not rely on this information but seek specific advice relevant to your actual circumstances.

© Copyright 2022 ANTIPPA LAWYERS