Antippa Lawyers

since 1961

MATRIMONIAL

Foreword:
Who gets to keep what in the end?

ANTIPPA LAWYERS can guide you with the details.

The initial Affidavit which you draft for us should discuss how your circumstances are affected by each of the following criteria for decision.

FINANCIAL SETTLEMENTS

<u>9 factors are considered:</u>

1. The Asset Pool is the total value of all of the assets, less liabilities of both parties. The Financial Contributions are who paid for what, to buy and to improve.
    - Assets are cash, jewellery, trusts, shares, properties.
    - Liabilities are loans, credit cards.

2. Non-financial contributions to the acquisition, conservation and/or improvement of the assets. E.g. your personal labour for decorating, painting, maintenance and upkeep.

3. Welfare, home-maker, parenting, home-work, further studying.

4. Health.

5. Financial resources of parents, of Trusts and of family companies.

6. The difference between the future income-earning ability between the parties.

7. Add-back is the initial contributions of each party before the relationship was formed. This does not include loans (which are supported by written loan documents).

8. Future needs depends on the length of the marriage, your age, health, income capacity, Children.

9. If the settlement is just and reasonable.

HOW TO AVOID COURT?

1. When we serve your Court documents on the other person, the other person will know you are serious and will want to talk.

2. Each time we go to Court, we will talk to the other person or to his lawyer.

3. Mediation is the main opportunity for settlement. A good mediator will try hard to avoid Court.

4. Make a written offer, so that if it is not accepted, the other person will pay your legal costs.

5. The day of the final Court hearing getting closer, encourages parties to avoid court and to settle.

6. Remember: only 2% of cases go to a final hearing. Judges only want to hear cases which have difficult legal questions: not cases where the parties just do not agree to settle.

REAL ESTATE

If real property is in your name, then property cannot be sold without your approval.

If real property is not in your name, then you need to ask ANTIPPA LAWYERS to lodge a Caveat on the property title to prevent the property from being sold.

Even if you do not live in the house any more, you must still pay the mortgage instalments to the bank, if your name is on the mortgage.

A Court order can direct your bank that only your partner is to pay the mortgage instalments. The bank may object if it thinks that the other person does not have the ability to pay the mortgage installments on their own.

If you ignore the mortgage, you will get a poor credit rating and you will not be able to buy your own place.

FINANCIAL STRESS

If you are stressed about being able to pay the loan, you should do the following immediately before the problem is really big:

1. Speak with a Bank officer. Changes can be made to your repayment, especially if you are ahead. Also, you may be able to get one month's reprieve from payments.

2. Review your budget with a financial adviser to know what is affordable for you.

3. Ask the bank to re-value the property.

4. It is better to agree to sell the property between the parties. If the bank sells the property, the sale price will be less and the selling fees will be significantly higher. A poor credit rating will result.

5. Talk to a financial advisor, mortgage broker and to ANTIPPA LAWYERS.

SUPERANNUATION

Superannuation can be split. However, you do not get the money until you are at the particular age.

CHILD SUPPORT AGENCY

Contact a Centrelink office to make an application or to determine how much you will have to pay.

This depends on the following factors:

1. The income of each parent;

2. The government determines the amount you need for your own support;

3. How many nights of care you have for the number of children.

SPOUSAL MAINTENANCE

Child maintenance means payments to support a child.

Spousal maintenance means usually a lump sum amount to support your ex-domestic partner.

This is only ordered if there are special needs circumstances. The other party would have to be able to afford the payment.

DOMESTIC VIOLENCE

If an incident occurs, you should first contact the police.

Discuss this with ANTIPPA LAWYERS.

FURTHER READING

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https://www.fcfcoa.gov.au

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