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LawTalk Blog



The importance of disclosure in Family Law

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After a separation, one of the important issues that must be dealt with between you and your former partner is achieving a fair and equitable [Family Law property settlement](#).

In order to determine what your entitlements are, you need to be aware of the other person's financial circumstances and be able to determine the total property pool.

The rules of the Family Court of Australia state that both you and your former partner must provide each other with full and frank disclosure of your financial circumstances. This ensures each party is aware of the other's financial circumstances.

The rules set out a wide range of information that is required to be disclosed. Typically this would involve disclosure of a party's financial circumstances including:

1. all sources of earnings;
2. any property or financial resources that are owned by the party directly, or are held in corporations, trusts, or other such structures;
3. any disposal of property from a year before separation to the present time.

What do you do if your former partner does not make the required disclosure?

If your former partner refuses to provide documentation or information in respect to their financial position, then you may apply to the Family Law Courts for an Order compelling their disclosure. The Court will make these types of Order and there are penalties for breaching a Court Order. The Court can also award costs to a party if the other party has refused to make disclosure.

Failure to provide full and frank disclosure of your financial circumstances can lead to a Property Settlement Order being set aside on the grounds of fraud.

In this situation, the party that has failed to accurately disclose their financial circumstances are likely to be awarded costs against them.

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