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LawTalk Blog



Family Law team success in De Facto property settlement

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In late 2010 the plaintiff filed a claim against her former partner for a [division of property](#) following the breakdown of their [De Facto](#) relationship.

The plaintiff had minimal assets while our client, the defendant, owned a number of properties. She said that the relationship had existed for a number of years while he said that they had only lived together for a much shorter period.

Right from the start of this matter I formed the view that the plaintiff should not succeed in her claim against our client. I took detailed instructions from our client, collected paperwork, and tried valiantly to convince the plaintiff to withdraw her claim.

Despite our best efforts to settle the matter out of court, our client's offers were rejected.

This case turned out to be a long and difficult matter. There were issues with the proper exchange of relevant documentation and it was necessary for me, as the solicitor on file, to lodge Interlocutory Applications with the court to address this and to progress the matter. I then attended at numerous pre-trial hearings pursuing those Applications and entered into substantial correspondence with the plaintiff's solicitors regarding the matter.

In order to reply to the plaintiff's claim in a District Court matter it is necessary to ensure that a Defence is filed. With the assistance of Counsel, we took great care in the drafting and settling of our client's Defence to ensure that all relevant points were covered. In

addition to this we filed a Counterclaim seeking to recover monies loaned to the plaintiff, on behalf of our client.

In most cases a matter would proceed through negotiation to a settlement over the course of one to two years. Where the matter does not settle it will go to trial. In this case, more than 3 years after the plaintiff's claim was filed the matter went to Trial in the District Court of South Australia.

We engaged an experienced barrister to represent our client in Court while we provided substantial solicitor support. We assisted our client through the trial process and prepared his witnesses to give evidence to support his case.

At the conclusion of the trial the Judge considered all of the evidence and legal arguments presented to him. He then delivered a judgment that found in favour of our client, accepting the facts and submissions on the law, as strategised and fought for by our client's legal team.

Generally in De Facto relationship cases the court will decide which party keeps which assets or how much one party has to pay out as a settlement sum to the other party. Ultimately in this case the Judge decided that our client did not owe the Plaintiff any money at all!

He found that she had already received her fair share during the relationship and there was nothing more for him to pay. Furthermore, we applied to the court and were also successful in obtaining an Order for the Plaintiff to pay our client's legal costs.

A lot of time, effort, specific family law expertise and experience along with significant compassion for our client's rights went into this matter but we never gave up and at the end of the day our client was rewarded with a clear win!

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