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LawTalk Blog



Family Law property settlement and the family farm

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Scenario

Mathilda lives on a farm. Her husband, Peter and his brother crop the land and run sheep. The brothers were gifted the family farm by their parents. They own about 2,000 hectares. They've lived there since they got married 15 years ago. Peter's parents used to live in the main house and Mathilda and Peter lived in the cottage but the parents recently moved into town over 60 kilometres away and Mathilda and Peter moved back into the main house. The house is pretty run down but Mathilda is gradually painting throughout.

It is a lot less work for Mathilda now that Peter's parents have moved. She was always taking them to doctor's appointments and picking up their medicines from the chemist. It doesn't sound like a lot but it is when the nearest town is over 60 kilometres away.

The couple's kids both go to the local school. They are getting old enough now that they are starting to make their own lunches so that's one less household duty for Mathilda. It can get pretty busy around shearing time with the cooking for all the hungry workers so Mathilda has asked Peter if he'd employ a cook. Peter has rejected that idea saying it is Mathilda's job; making breakfast, lunch and dinner for who knows how many.

Mathilda spends a lot of time at home alone. Peter doesn't want her to go out to work and she doesn't really know what sort of job she could get any way. He says that he is the bread winner but he doesn't give her any money for personal use. He gives her enough to do the grocery shopping but that's it.

At the start Mathilda liked living on the farm but now she's not so sure. Peter's told her that if she leaves, he'll kill her. She doesn't know what to do! She knows it's his farm and she hasn't got any right to any of it but she'd like a bit of money for her and the kids to

go somewhere else and she's always dreamt of doing some University study. She'd love to be a vet.

What rights does Mathilda have?

Many factors and contributions need to be considered when dividing the family relationship pie. Just because your husband inherited the family farm doesn't mean that you don't have a financial claim against it. It is not just financial contributions that are considered but non-financial contributions too.

The Family Court will take into account all that running around Mathilda did for Peter's parents. It will take into account all that painting that she did to improve the house. She cooked and cleaned and cared for the kids too. She fed the workers on the farm and made the house a home.

These are contributions that will see her awarded a monetary sum for all her efforts and contribution. You may be surprised at just how much her entitlements are. All the property that she and her husband own will be added up to see what slice of the monetary pie is hers. It doesn't matter if the property is not in Mathilda's name or even if it is in a family trust; if it is property of the relationship then some of it will be hers.

She has your dream to go to University and be a vet. She'll need some financial assistance to do this. Spousal maintenance will help her pursue her study so she can gain some further skills and a job as she will not have the benefit of keeping the family business to make a living.

Peter needs to contribute financially to allow Mathilda to study and gain a job so that she can have an income too. This is her entitlement and right. A [property settlement](#) is not about what Peter chooses to "give" Mathilda.

Seeking experienced Family Law advice is essential

Parties often don't want the family farm sold. But that doesn't mean that they should receive nothing while their partner keeps the farm. Our lawyers have assisted clients to keep the farm while still paying a "fair" amount to their spouse. Solutions such as periodic payments can assist in this regard enabling the farm to be kept while the other party gains their financial independence too.

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