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S O L I C I T O R S

LawTalk Blog



She called off the wedding; does she keep the engagement ring

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Scenario:

John and Marilyn have been living together for 10 years. Five years ago they got engaged with John getting down on bended knee at their favourite restaurant and presenting Marilyn with a lovely white gold diamond engagement ring.

John has his own business. Due to some financial pressures with his business, John convinced Marilyn to postpone their wedding. The postponement of their wedding caused great friction in the relationship with Marilyn being resentful of John for postponing the wedding for five years.

Marilyn decides she has had enough. Last week she left the home that she shared with John and she moved in with her sister. John is shocked at Marilyn's departure and that she would suddenly leave him. His ego is badly bruised. John telephones Marilyn and a loud fight ensues. John tells Marilyn that she has to give the engagement ring back to him right away. Marilyn tells John that the engagement ring was a gift from him and that engagement rings are not taken into account in [property settlements](#).

Who is right?

Answer:

First, it is important to note that John and Marilyn have been living (cohabitating) together as a couple for 10 years, which means that their property settlement will be a de facto property settlement under the *Family Law Act 1975* (Cth).

If John and Marilyn were engaged, and living together for a period of less than two years, did not have any children and had not made significant contributions to the relationship, any issues regarding the engagement ring would have to be dealt with through a State Court.

The Court has been known to take various approaches with engagement rings, and generally the approach that the Court will take will depend on the value of the engagement ring itself.

In the Family Law jurisdiction, the Court has to assess the ownership and value of the property pool. This is based on the evidence put before the Court by the parties. Generally it is only cost effective to include "big ticket" items, which are items of significant value such as real property, share portfolios, superannuation or investments.

If an engagement ring was purchased for a modest sum of say \$3,000.00, it is likely the real second hand value is much less. Generally neither the parties nor the Court would include the ring in the property pool as a separate item, but it may simply form part of the parties "personal effects". It is also likely that the legal representatives for each party would advise John and Marilyn not to argue over an asset with such a modest value, as the legal fees spent arguing over the ring would likely exceed the value of the ring itself.

In John and Marilyn's case, John ends up producing a certificate of purchase for the engagement ring. The engagement ring was purchased for \$1,200.00 from Shiels Jewellers. John's lawyer advises John not to pursue an argument to include the engagement ring in the asset pool. Not only is the purchase price modest, but John may be at risk of running a futile argument over the ring, as the law in this area is so varying as to who has ownership of such an item.

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