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LawTalk Blog



We separated because of my husband's gambling

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Sadly, I often see couples that have had a breakdown in their relationship due to one of the parties' gambling problem.

In many cases the other party may not have been aware of the gambling at all or at least not the extent of the gambling. People often go to extreme measures to keep their gambling hidden by having secret accounts, making cash withdrawals at different ATM's or accumulating extensive credit card liabilities. It is not uncommon for us to see credit card liabilities of \$50,000 to \$100,000.

"... there should be no delay and action should be taken immediately to preserve the remainder of the property pool."

My view is that in circumstances such as this, there should be no delay and action should be taken immediately to preserve the remainder of the property pool.

When determining property settlement it is highly likely that such gambling would be treated as "wastage" by a court. This means that a court can either deduct that money from the share the gambling party would otherwise receive or it can award them a lesser percentage of the total property pool because of it.

Given the secretive nature of peoples' gambling problems, it can be very difficult to quantify exactly what the gambling has amounted to. In these cases we can engage forensic accountants to review vast numbers of bank statements to try and ascertain the extent of the gambling. This can however be a costly exercise for both legal and accounting fees which are probably not going

to be recovered by the innocent party.

My view is that the most important thing to do in these situations is to stop the gambling from occurring as soon as you become aware of it.

Things you would need to be aware of include:

1. Seek legal advice as soon as possible.
2. Ensure that any redraw facility on any mortgage can only be accessed by joint authority of the parties or not at all.
3. Close joint accounts or at least keep any money in any joint account to the absolute minimum required to meet living expenses.
4. Keep your income separate in a separate account.
5. If they have a card for one of your credit cards, cancel it.
6. If necessary apply to the court to seek injunctions stopping the other party from using money or obtaining credit.

Whilst the [property settlement](#) can be adjusted to take into account one person's gambling, it is always better to put a stop to it as soon as it is discovered to minimise the damage caused rather than relying on hopefully achieving an adjustment at settlement.

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