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LawTalk Blog



Are "unpaid home duties" considered in property settlement?

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Looking at "financial vs non-financial" contributions in Family Law property settlement proceedings

When going through a [Family Law property](#) settlement, an important step is to accurately assess the contributions of both parties. This not only includes the financial contributions, but also includes non-financial contributions. Under the *Family Law Act 1975* (Cth) ('the Act') the court will take into account the following contributions:

1. The financial contributions made directly or indirectly to the acquisition, conservation or improvement of any the property;
2. The contribution (other than a financial contribution) made directly or indirectly by or on behalf of a party to the marriage to the acquisition, conservation or improvement of any of the property; and
3. The contributions made by a party to the marriage towards the welfare of the family.

In this blog, we will be focusing on how the court is likely to assess the contributions of the parties; both financial and non-financial.

Scenario:

- Bob and Mary have been married for 17 years. There are two children of the marriage; Penny who is 15 and Lucy who is 12.
- Bob is an accountant and has continued to work full time throughout the parties' relationship. Mary is a pharmacist and was working full time prior to the birth of Penny.

- Mary took a year off for maternity leave before returning to work part-time. Two years later Lucy arrived and Mary took 10 months' maternity leave for the birth of Lucy.
- Mary then returned to working part-time for a period of 5 years before returning to full time work.
- Bob and Mary purchased their matrimonial home in joint names at the beginning of their relationship.
- Both parties contributed equally to the deposit of the home and a mortgage was taken out in joint names for the remainder of the purchase price.
- Bob and Mary have shared joint bank accounts throughout their relationship.
- Bob's salary is paid into a joint account each fortnight. The mortgage repayments for the matrimonial home are then debited from this account each fortnight.
- Mary's salary is paid into a separate account in the parties' joint names. It is from this account that the parties' day to day living and household expenses are funded.
- Five years ago, Mary inherited \$50,000 after her father passed away. This money was put towards extensive renovations on the parties' matrimonial home.
- On the weekends, Bob has been busy re-painting the home and landscaping the garden.
- Mary is the primary homemaker and parent. She cooks dinner each night for the children and Bob, and attends to the washing for all family members. She also does most of the general cleaning around the home.
- Bob will, however, sometimes help out with the vacuuming.
- Three months ago, Bob moved out of the matrimonial home and ended the relationship.
- The parties are now in the process of finalising their property settlement.

For the purposes of property settlement, how will the contributions of both parties be assessed?

Answer:

Using the scenario described above the following contributions will be considered by the court in Bob and Mary's property settlement:

- Bob's direct financial contribution to the purchase of the matrimonial home through the deposit that he paid.
- Mary's direct financial contribution to the purchase of the matrimonial home through the deposit that she paid.
- Bob's direct financial contribution to the acquisition of the matrimonial home through making the mortgage repayments.
- Mary's indirect financial contribution to the acquisition of the matrimonial home through funding the parties' day to day living and household expenses.
- Mary's direct financial contribution to the improvement of the matrimonial home through her inheritance of \$50,000 which was used to fund the renovations.

- Bob's direct non-financial contribution made to the improvement of the property through painting and landscaping the gardening.
- Mary's non-financial contribution to the welfare of the family, through her cooking, cleaning and caring of the children.

These are the contributions which would be considered by the court using the above information. There are many other contributions which could be considered, depending on the circumstances of each matter. For example, if one child were disabled and one parent could not work or could not work full time due to carer's commitments to their child, this could be assessed as a non-financial contribution. Alternatively, if one party as an accountant prepared the tax returns for the family and managed the family's accounting/investments, this could be seen assessed as a non-financial contribution.

It is therefore important to seek legal advice from an experienced Family Law solicitor to assist you with [formalising your property settlement](#).

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