

My ex has a new partner. How does this affect property settlement?

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Going through a separation is already challenging, but it can become more complicated if your ex meets a new partner, especially when it relates to property settlement. If your ex has found a new relationship, you may wonder how this affects any future property settlement negotiations.

In this blog, we'll discuss how a new partner can impact your family law property settlement, the factors the Court will consider, and what you can do to protect your interests.

Generally, the Court will consider how the new relationship impacts on financial positions and property settlement. The presence of a new relationship by itself is not reason enough to make certain decisions about the division of property.

Understanding property settlement in family law

In Australia, family law property settlements aim to divide assets fairly between parties after a relationship breakdown. The goal is to ensure that both parties are financially supported and that assets are distributed equitably.

A property settlement can involve a variety of assets, including:

Real estate (for example, the family home or investment properties);

- Superannuation;

Vehicles and personal possessions;

- Investments, shares, and business interests.

The division of these assets depends on a number of factors, including the length of the relationship, financial and non-financial contributions of both parties and future needs. You can read more about family law property settlements in our blog “How does the Family Court determine property settlement matters?”

How can a new partner affect property settlement?

When your ex-partner enters a new relationship before your property settlement has been finalised, it can affect the outcome in certain circumstances. These are as follows:

New partner’s financial situation

Your ex’s new partner may bring their own financial assets into the equation. This can be particularly relevant if your ex’s new partner contributes financially to the household or helps with the management of shared property.

Contribution to the household

If your ex’s new partner helps to pay off debts or contributes significantly to household expenses, it may impact the final property settlement, especially if it strengthens your ex's financial position.

Assets brought into the relationship

If your ex’s new partner has significant wealth, this could indirectly affect your ex’s future financial capacity, which could be considered in the settlement process.

Changes to future needs

Future financial needs are a critical factor that may affect property settlement if your ex has a new partner. If the new partner is making significant contributions to your ex’s financial position, this may impact any spousal maintenance application or adjustments in asset division.

Support provided by a new partner

If your ex’s new partner is financially supporting them, this may reduce your ex’s claim for maintenance or a larger share of the asset pool.

Shared future expenses

The new partner's presence could indicate a reduced need for your ex to maintain a certain standard of living, which may lower the overall settlement required.

Potential impact on superannuation or assets

When determining an asset division, the Court may take into consideration a new partner's income, assets, or superannuation if they are substantial. The introduction of a new partner with significant financial resources may indicate that your ex's financial future is more secure.

New partner's role in the family business

If your ex owns a business or shares in a company, the role of their new partner in the business could also influence the property settlement. For example:

If the new partner helps run the business, their contribution may be considered when assessing the value of the business, which could affect your share of the assets.

The Court may need to consider any financial or non-financial contributions made by the new partner that impact the business's value or operational success.

Centrelink benefits

In some cases, a new partner may affect your ex's eligibility for government assistance, including family tax benefits or Centrelink benefits. This could influence the overall settlement negotiations.

What factors will the Court consider to determine a fair and equitable property settlement?

When considering orders for property settlement, the Court doesn't necessarily consider whether your ex has a new partner directly. However, it will assess a number of factors that could be influenced by the new relationship.

Contributions to the relationship

The Court looks at both financial and non-financial contributions during the relationship and the separation period. This includes contributions to homemaking, caring for children, or working in a family business.

Future needs

The Court considers the future needs of both parties, including their health, age, income, caring responsibilities and the financial support of any new partners.

Other factors to determine property settlement

The Court will distribute assets based on factors like the length of the relationship, the roles each party played (for example, did one party stop work to care for children of the relationship), and the parties' financial situations post-separation, including their earning capacity.

What you can do to protect your interests during property settlement negotiations

If your ex has a new partner and you're concerned about how this may affect your property settlement negotiations, there are several steps you can take to protect your interests.

Keep records of contributions during the relationship

Ensure you document all contributions you made during the relationship (both financial and non-financial), as well as your current financial situation. This is especially important if your ex's new partner contributes to the household or business.

Review property settlement agreements

If you've reached an informal agreement and/or are preparing for consent orders, ensure that these agreements remain in line with any changes that might arise due to the presence of a new partner.

Engage an experienced family lawyer

A family lawyer can help you navigate how your ex's new relationship might impact property settlement and ensure your financial future is protected.

Get help from a family lawyer

While a new partner can introduce new complexities in property settlement, it does not necessarily result in a direct impact on your rights or your share of the assets. The Court will focus on fair and equitable distribution based on a range of factors, including financial contributions, future needs, and personal circumstances.

In some cases, a new partner’s financial stability may affect your ex’s need for spousal support or influence the assessment of assets. However, this is usually one factor among many that will be considered.

If you're uncertain about how your ex’s new relationship may influence your property settlement, seeking legal advice is an important step in ensuring your rights are protected.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.