



How partial property settlements work after separation

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A partial property settlement is an arrangement where separating couples resolve some, but not all, property issues before their final [property settlement](#). This article explains what a partial property settlement is, when it may be appropriate, how it works under Australian law, and the risks and benefits to be aware of before proceeding.

What does “partial property settlement” mean?

In family law matters, a property settlement is the legal process of dividing assets, liabilities and financial resources after a relationship breakdown.

A partial property settlement means:

only certain assets or liabilities are dealt with now;

the remaining property issues are left to be resolved later; and

the overall property settlement is not yet finalised.

This approach allows part of the financial separation to move forward while more complex issues are still being worked through.

When might a partial property settlement be used?

A partial property settlement is not suitable in every case, but it can be helpful in specific situations, such as:

one party urgently needs access to funds to meet living expenses or legal costs;

a particular asset needs to be sold quickly, such as the former family home;

there are [business interests](#), trusts or [valuations](#) that will take time to resolve;

the parties agree on some aspects of the property pool but dispute others;

there are tax, market or timing issues that make delay risky.

Is a partial property settlement recognised under the Act?

Yes. The *Family Law Act 1975* ("the Act") allows parties to resolve property matters in stages.

Under the Act, you and your former partner may:

enter into interim or partial agreements;

seek court orders dealing with part of the property pool; or

combine informal arrangements with later formal orders.

This flexibility means you have options depending on your circumstances.

How can a partial property settlement be formalised?

A partial property settlement can be formalised in several ways, depending on the circumstances.

Interim consent orders

If you have ongoing Family Court proceedings with respect to a final property settlement but agree in relation to a partial property settlement, then you can file a Minute of Consent Orders with respect to your partial property settlement.

Key features:

They are legally binding once made;

The court must consider whether the orders are just and equitable;

They usually specify that the orders are interim and particularise any action as a partial settlement, not final.

Learn more in our earlier blog, [“A comprehensive guide to family law consent orders”](#). Please note: You cannot file an Application for Consent Orders seeking Orders for a partial property settlement.

Interim court orders

If you and your former partner cannot agree, one of you may apply to the court for [interim property orders](#).

The court issues these when:

you face financial hardship;

you need urgent access to funds;

delay would cause unfairness or risk.

The court examines whether granting the order is in the interests of justice. Simply needing money is not enough. You must show a genuine need and that the order is fair to both parties.

Binding financial agreements

A [Binding Financial Agreement](#) also works for partial property settlements, though this is less common.

Important points to note:

Strict legal requirements apply;

Each party must obtain independent legal advice;

Errors can make the agreement unenforceable.

What assets are commonly dealt with in a partial settlement?

Not all assets are suitable for partial settlement, but common examples include the following:

Sale proceeds from the former family home;

Funds held in joint bank accounts;

Payment of debts such as mortgages or tax liabilities;

Release of funds for legal fees or medical expenses.

The court examines whether dealing with these assets early is fair in the context of the overall property pool.

What are the benefits of a partial property settlement?

A partial property settlement can provide practical advantages, including:

immediate financial relief for one or both parties;

reduced pressure during lengthy negotiations or court proceedings;

ability to address urgent needs without waiting for final resolution;

potential cost savings if early agreement reduces later disputes.

For many people, it can make an otherwise overwhelming separation more manageable.

What are the risks and downsides?

Partial property settlements also carry risks, which should be carefully considered.

These include:

one party receiving more than their eventual entitlement;

reduced flexibility when finalising the remaining property issues;

difficulty "unwinding" arrangements if circumstances change;

potential tax or stamp duty consequences;

increased legal complexity if not properly documented.

You cannot reverse transfers or sales of assets once they occur. This is why legal advice before agreeing is essential.

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How does the court assess fairness in a partial settlement?

Even when dealing with only part of the property pool, the court applies the "just and equitable" test. This legal test means the court must believe the arrangement is fair to both of you, given your financial situation, contributions to the relationship, and future needs.

This involves looking at:

the total property pool, including assets not yet divided;

each party's financial and non-financial contributions;

- [future needs](#) such as income, health and care of children;

whether the partial settlement creates unfair advantage or hardship.

The court will not approve arrangements that clearly disadvantage one party. It must be satisfied that the partial settlement does not distort the final outcome.

Does a partial property settlement affect time limits?

Yes, and this is an important issue.

Married couples generally have 12 months from the divorce order to make an application for final property settlement;

De facto couples generally have two years from separation.

If you do not apply for a final property settlement, you will need court permission to proceed. This can be difficult and costly. This is particularly relevant if you formalise your partial property settlement by way of a binding financial agreement.

You can learn more in our earlier blog, ["Time limits for family law property settlement"](#)

Can a partial property settlement be informal?

Informal arrangements are possible, but they are risky.

Without formal documentation:

agreements are not legally enforceable;

one party may later dispute what was agreed;

the court may not recognise payments or transfers already made.

In most cases, informal partial settlements create more problems than they solve. Time limits are also a very important consideration with respect to informal partial property settlements.

Frequently asked questions

Is a partial property settlement final?

No. A partial property settlement only resolves specific issues. The remaining property matters still need to be finalised through agreement or court orders.

What happens if parties don't agree?

The court can order a partial settlement only if the applicant shows financial hardship and a genuine need for funds. Simply wanting money is not enough. The court must find it is in

the interests of justice. This means the court must be satisfied that the order is fair to both parties and that withholding the funds would cause unfairness.

Will a partial settlement reduce my final entitlement?

It can, depending on how it is structured. For example, if you receive \$100,000 in a partial settlement but that amount exceeds your eventual share of the total property pool, you may need to return funds or accept a smaller share later. This is why careful legal advice is essential before agreeing to any partial division.

Do I need a lawyer for a partial property settlement?

While not legally required, legal advice is strongly recommended due to the financial and legal risks involved.

A family lawyer will:

review the proposed partial settlement and check that your share is fair;

ensure all documents are properly prepared and filed;

protect your interests throughout the process;

explain how the partial settlement affects your final entitlement.

Get help from a family lawyer

A partial property settlement offers speed and relief. Get it wrong, and you could harm your financial future. Talk to a family lawyer before signing anything. They will check that your share is fair and that your interests 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.