



## How does property settlement work in short relationships/marriages?

**Date: Monday September 12, 2022**

Property settlement after separation or divorce is a common occurrence in family law. However, the outcome of each settlement is never the same due to a number of factors. In this blog, we are going to look at how a short marriage or short relationship (a couple of years as opposed to, for example, several decades) may impact [property settlement negotiations and finalisation](#).

There are many factors to be considered when determining what a just and equitable outcome for each property settlement is. There are two pieces of legislation that are relevant:

The *Family Law Act* 1975 – this is federal legislation covering States and Territories and covers both separating married partners and separating de facto partners.

The *Family Court Act* 1997 – this is Western Australian legislation covering separating de facto partners in WA.

## What is a short relationship in family law matters?

The terms 'short marriage' or 'short relationship' are not defined in the *Family Law Act* or the *Family Court Act*.

When determining whether a relationship or marriage is a short marriage/short relationship, it is relevant to consider whether the parties cohabited in a de facto relationship prior to marriage.

That means if the parties were only married for two years but lived together for 20 years prior to the marriage, they would not be considered to have had a short marriage.

# What is considered during property settlement after a short relationship?

Contrary to urban myth, there is no different law, rules or process for determining how to divide property in a short relationship as opposed to a relationship over many years or even decades.

The same principles are applied for a property settlement, notwithstanding the duration of the relationship.

The primary consideration to be established at the outset is if it is "just and equitable" to make any order to divide the property of the parties to the relationship.

In longer relationships, this requirement is easier to satisfy.

In short relationships, however, it may be that the property of the parties remains as it was prior to the commencement of the relationship, with no further contributions being made by either party. In those circumstances, it may be that no order is necessary to alter the ownership of any property of the parties. The end result may then be that each party keeps what they brought into the relationship.

If it is established that it is "just and equitable" to make orders dividing the property of the parties, then it is necessary to consider the contributions of the parties during the relationship along with their future needs.

The contributions of the parties, at the beginning of the relationship, during the relationship and post-separation will be assessed and considered when determining a fair and equitable distribution. This will include:

financial contributions;

non-financial contributions; and

parenting,

including the direct and indirect contributions by or on behalf of a party to the acquisition, maintenance and improvement of any property.

In the infamous 2012 High Court decision of *Stanford & Stanford*, it was stated:

*"It may readily be assumed that the length of the parties' marriage directly affected the extent of the contribution."*

What can be taken from the above quote is that the longer the parties are in a marriage or de facto relationship, the more likely they

are to contribute, both financially and non-financially, to:

the welfare of the family;

the acquisition, conservation or improvement of any property of the marriage/relationship; and

any children of the marriage.

## **Shorter marriages/relationships attract greater scrutiny by the Court**

In shorter marriages/relationships, contributions are given particular attention as they are more significant in a short marriage/relationship compared to the range of contributions that are typically accumulated in longer marriages/relationships.

When there is a short relationship, the Court may take a closer examination of the financial contributions of each party to the acquisition, maintenance and improvement of assets. The assets that the parties each brought into the relationship, known as the initial financial contributions, will likely be closely scrutinised.

The future needs of each of the parties are also required to be assessed, including:

the age of the respective parties;

their state of health;

their earning capacity;

whether either party has care of a child or children; and

maintaining a standard of living in all the circumstances, that is reasonable.

## **Get property settlement help from a family lawyer**

If you are considering separation or have recently separated, Meillon & Bright's team of experienced family lawyers can assist you with considering your rights and entitlements to a property settlement. It's important to note that there are [strict time limits related to family law property settlement](#).

We can assist you with working through the various options to engage with your former partner to discuss your property settlement or the options available to commence proceedings in the Family Court if necessary. We will also work with you to [formalise any agreement you reach](#) to ensure your future interests are protected.

Our family lawyers also regularly work with [other professional advisors, including financial advisors, tax specialists and accountants](#), to craft property settlements in a way which maximises the practical outcomes for our clients and minimises potential taxation consequences.

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