

House of Lords uphold award of £5m after short, childless marriage

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The House of Lords have today given their decision in the case of Alan and Melissa Miller. Their decision confirms that a short marriage is no bar to the equal division of matrimonial assets whilst giving clear support for the contention that pre-marital and inherited assets are to be considered separately and as a different class of asset. However, it is also clear that the passage of time may erode the distinction between these classes of assets as may the manner in which the assets have been dealt with during the marriage. This underlines the need for wealthy individuals to consider entering into pre-nuptial agreements (perhaps supported by Living Together Agreements where there is to be pre-marriage co-habitation) whilst lending support to the principle of keeping separate previously acquired property. This principle underlies most of the agreements that we advise upon.

The House of Lords decision:

- the starting point of equal division of marital assets applies equally to short and long marriages
- marital assets are to be distinguished from pre-marriage assets and inherited or gifted assets
- there may be justification for differentiating between “family” marital assets such as the family home, holiday homes, cars, boats and savings and separate “business or investment” assets generated by one party alone during the marriage, particularly where the marriage is short

- conduct of parties to the marriage is only relevant in exceptional cases and Mr Miller’s decision to end the marriage did not impact upon the size of the award made
- Mrs Miller’s award of £5m represents a fair share of the additional wealth accumulated by Mr Miller during the marriage, estimated to be in the region of £15m. The short duration of the marriage, the fact that Mr Miller’s business dealings had in part pre-dated the marriage and that he had funded his investments using pre-marriage wealth justified the departure from equality in this case.

What will this mean for future cases?

- the conduct of the parties continues to be irrelevant in all but the most extreme of cases
- marital assets (including, in most cases, the family home whether or not that home pre-dates the marriage) will be vulnerable to equal division in all cases
- pre-marriage assets, inherited assets and gifts are to be considered separately as an additional contribution to the marriage (although the passage of time and the manner in which those assets have been dealt with can lessen the impact of this distinction).

Background

- This was a marriage of only two years and nine months. There were no children. When the couple became engaged Mrs Miller was

working for a pharmaceutical company and living in a rented flat in Cambridge. Mrs Miller subsequently took a job in PR (earning £85,000) and moved to London in anticipation of her marriage in July 1999. The couple did not cohabit prior to the marriage as Mrs Miller felt this to be inappropriate.

At the time of their marriage Mr Miller was worth £16.7 million. In April 2003 Mr Miller left the marriage to pursue his relationship with another woman whom he has since married. By the time the couple separated Mr Miller was said to be worth £17.5 million plus a value to be attributed to his shares in the newly formed New Star Asset Management put at somewhere between £12 million and £18 million.

The Court of First Instance decision

At the original hearing the court awarded Mrs Miller £5 million (Mr Miller had made an offer of £1.3 million to “help her get back on her feet”).

Mr Justice Singer took the view that:

- although they had not co-habited Mrs Miller’s commitment to the marriage had been evident from the time of their engagement and should, therefore, be added to the length of the marriage making this a marriage just short of four years
- Mrs Miller had a legitimate expectation that the marriage would last and that she would continue to live at the higher standard of living she had enjoyed since the marriage
- Mr Miller was to blame for the breakdown of the marriage. This consideration shielded Mrs Miller from Mr Miller’s reliance on the short duration of the marriage.

The Court of Appeal decision

The Court of Appeal upheld the lower court’s decision finding that:

- the judge was entitled to consider the cause of the marriage breakdown when considering what award to make
- the award made was not outside of the scope of the judge’s discretion
- the judge had correctly identified Mrs Miller’s commitment to the marriage.

The issues

On 30 and 31 January 2006, the House of Lords heard Mr Miller’s appeal.

Mr Miller’s legal team asked the Lords to decide whether the sum of £5 million was appropriate given the short length of their childless marriage.

Mrs Miller’s legal team argued that Mrs Miller had been fully committed to the relationship. On marriage Mrs Miller reasonably expected that she would live a better lifestyle and she had done so until Mr Miller ended the relationship. Standard of living was a factor which the court was directed to consider.

Mr Miller’s legal team had initially blamed Mrs Miller for the breakdown of the marriage. Mr Miller cited her unreasonable behaviour as the reason for the breakdown of the marriage rather than his own adultery.

However, by the time of the hearing in the House of Lords, Mr Miller’s team had moved to rely more heavily on the length of the marriage as a reason to limit the scope of the award to be made to Mrs Miller.

Concluding remarks

- Today’s case makes clear the principle of equal division of marital assets (including the family home) after a marriage of any length. Although those who are independently wealthy can take heart from the clear

distinction drawn between marital assets and pre-marriage or inherited assets they must bear in mind the fact that the distinction can be blurred by the passage of time and the way in which those assets are treated during the marriage. Wealthy individuals who wish to protect their assets in the event of divorce are well advised to enter into a pre-nuptial agreement which will usually seek to ringfence those separate assets in the event of divorce and to set out in advance the way in which those assets will be dealt with during the marriage. Individuals may also want to consider entering into a Living Together Agreement to regulate the way in which assets are treated during a period of co-habitation.

Contact

For more information on the issues surrounding the division of assets following matrimonial breakdown or to find out more about Speechly Bircham's wealth protection, trusts, family and matrimonial services please contact:

Christopher Butler, Partner

Email: christopher.butler@speechlys.com

Direct tel: 020 7427 6400

or visit our website www.speechlys.com