

SHORT MARRIAGES – ARE THEY WORTH ANYTHING?

Since the House of Lords gave its judgment in *White – v – White* in 2000 the public have been left with the (mistaken) assumption that matrimonial assets should be divided equally upon breakdown of the marriage.

The case of *White – v – White* involved a lengthy marriage of some 30 years. The couple's overall net worth was assessed at around £4.6m. At the end of the proceedings, the wife recouped 37% of the assets.

What happens if the marriage is short?

As a general rule, when both parties are young, childless, and earn an average income, each party might expect to withdraw from the marriage what they put into it. The assets accumulated during the marriage would then be divided equally.

Pre-marriage co-habitation will usually be treated in the same way as marriage, with no distinction being drawn.

Even though the ink may not have dried on the Marriage Certificate, a spouse might have given up a career, had children, thereby depriving herself of generating an income and pension that she otherwise would have been able to had she remained single.

The interesting Court of Appeal case of *Miller – v – Miller* (2005) has highlighted the dilemma faced by wealthy spouses upon the breakdown of a short marriage.

Mr Miller was 41 and a wealthy Fund Manager worth some £30m. Mrs Miller was 36 and had earned £85,000 per annum prior to her marriage. They did not have children. They had been married only three years when Mr Miller left the marriage in order to pursue a relationship with another woman.

The Court of Appeal supported the decision reached in the Court at first instance by Mr Justice Singer by endorsing the award made to the wife of a home (net worth £2.3m) and a lump sum of £2.7m.

The husband had initially offered £1.5m.

The case highlights the need for a sophisticated valuation of the extent of a wife's emotional commitment and psychological investment in the marriage.

Lord Justice Thorpe stated:-

“What a party has given to the marriage and lost (by the separation) cannot be measured by simply counting the days of its duration.”

The Judge has an over-riding obligation to have regard to all the circumstances of the case.

The Court of Appeal supported the Judge’s decision at first instance that

Mr Miller was to blame for the breakdown of the marriage and that, therefore, the Judge at first instance was entitled to give much less weight to the duration of the marriage, thereby providing justification for a higher award.

Mrs Miller clearly did not “need” a house worth £2.3m and a lump sum that would provide her with an annual net income of £98,000, but the Court of Appeal held that she was able to make a legitimate claim to a long term future at a higher level of affluence than she would have enjoyed prior to her marriage.

It is important to emphasize that this decision turned on its own facts. For the last 30 years the Courts have been reluctant to investigate allegations of misconduct. It is, therefore, unlikely that this case will re-open the floodgates to allow accusations to fly over who was to blame for the breakdown of the marriage.

However, the case does serve as a warning to wealthy fiancés to make sure that they enter into a signed Pre-Nuptial Agreement before they embark upon their journey down the aisle.