



Eatons

Evasiveness Shows True Intentions

There have been several cases before the courts in recent years which arose because a house or property was purchased in the name of one of an unmarried couple and then when the couple split up, the 'non-owner' claimed that they were entitled to an equitable share in the property concerned.

In general, where it can be demonstrated that a couple's intention was to hold the property jointly, the courts will accept such claims. However, a recent case shows that not having the right sort of evidence of the intention can lead to what seems, on the face of it, to be a very unfair result.

Sharon James lived with Peter Thomas, who was an agricultural contractor. She worked in his business, but received no payment. All the income from the business went into an account in Mr Thomas's name and all the couple's expenses were paid from this account, including the mortgage on the cottage they shared. The property had been purchased by Mr Thomas before he and Ms James started living together. Ms James had carried out improvements to the cottage which had enhanced its value. A piece of adjoining land was also acquired in Mr Thomas's sole name, payment for this being made in kind by work done by the couple.

The business was reconstituted as a partnership in 1999 and the bank account was made a joint account in 2002.

In 2004, after 15 years together, the couple separated and shortly after that the partnership was dissolved. Ms James claimed that she had a beneficial interest in the cottage, arguing that Mr Thomas had said she would be 'well provided for'. Interestingly, the court heard evidence that when the subject of formal joint ownership of the property was raised, Mr Thomas had been evasive. This was taken to mean that he had no intention of parting with an equitable share in the property. The court also considered that Mr Thomas's comment that Ms James would be well provided for was a general statement of a beneficial outcome, rather than a commitment to share ownership.

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The court ruled that her claim failed, leaving her with only a share in the partnership assets on the dissolution of the business.

Cohabiting couples are often unaware that they do not have the same legal rights as married couples or civil partners and this case is proof of the wisdom of unmarried couples setting out in clear terms what their financial arrangements are to be. This is easily done by creating a 'living together agreement'. Contact us if you need advice on protecting your financial position in the event of a break-up of your relationship.

For advice on all aspects of family and matrimonial law please contact Liz Williams on Tel: 01274 728 327.

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