



Eatons

Broken Homes – Split Houses

A recent House of Lords case has emphasised that when there is a break-up of a relationship and there is joint legal ownership of the house, the division of the value of the house will depend on what the couple's intentions were.

All of the relevant circumstances need to be taken into account. In the case in point, the fact that the couple maintained separate financial arrangements was germane to the decision.

But what is the case when the owners of the house are not a couple, for example where the property is owned jointly between family members of different generations? In one such case, a woman died and the property she lived in was owned jointly by her and her son. There had been no declaration of what proportion of the house each owned. Each had contributed equally to the household expenses and mortgage until the mother and son had quarrelled, at which time he moved out and the mother then met all of the mortgage payments herself. The son claimed a beneficial interest in the property and this was contested by the woman's other beneficiaries.

The judge hearing the case considered that the purpose of buying the property was to provide a home for the mother, who could not obtain a mortgage on her own. Mother and son had kept their finances separate and the solicitor who acted for them on the purchase considered that there was no intention that the property should be beneficially jointly owned. Furthermore, the judge considered that the mother would not have wished to deprive her other children of a share in her property.

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The court therefore ruled that the son had no beneficial interest in the property.

In another case, a divorced couple bought a property with a view to being reconciled. The property was put into the husband's sole name. When the relationship failed again, he left and his ex-wife remained living in the house. The court ruled that because the husband had given his ex-wife assurances that she could remain in the property as long as she wished, it could not be sold by her ex-husband without her consent.

Houses are usually the major asset of a family. It is therefore advisable to make sure that any details regarding the ownership of, and people's rights to, the family home are put down clearly in proper form when the property is acquired. This may save a great deal of expensive argument later.

Please contact Liz Williams for further information regarding marital and prenuptial agreements on Tel: 01274 728 327.

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