

IF MY NAME IS ON THE TITLE, IS MY FORMER PARTNER ENTITLED TO ANY PART OF THAT PROPERTY?

There is a belief that upon separation each party will retain the assets registered in their name. It is true to say that a Court, when considering what property order is just and equitable, will firstly look at the parties legal and equitable interests that they hold in the property of the relationship. But just because a property is registered in one party's name or the other, it does not mean that that party will retain that asset as part of a property settlement.

The Court when considering the division of property will take into account a number of factors including the financial and non-financial contributions of each party, including the contributions as homemaker and parent. Such contributions during a relationship are generally seen as equal to financial contributions. Usually in cases where parties have been together for some time they have each made significant financial and non-financial contributions over that time. This is particularly the case where there are children, but even where there are no children, both parties will often make significant contributions to property over time. If a party brings property into the relationship, it does not necessarily follow that party will retain that asset on separation, even though that property is held in their name. It can depend on the length of the relationship and the nature of the contributions that have been made throughout that relationship. Generally speaking, the longer the relationship, the more contributions that both parties are making, even to property that one or other party brings into the relationship.

If parties coming into a relationship do want to preserve assets that they are bringing in, then the only way to ensure that that occurs is for them just to sign a Financial Agreement prior to or during the relationship confirming that upon separation certain assets will be retained and certain other assets will be divided. These are complicated documents and require legal advice for them to be binding.

Post separation assets, including inheritances, can be taken into account as assets of the relationship in certain circumstances. Even tattsлото winnings after the relationship ends can be divided in certain circumstances.

So in answer to the question, if a person's name is on the title, it does not necessarily follow that the other party cannot gain an interest in that property and seek an Order from a Court dividing assets of the relationship.

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