



The basics of relationship property law that could protect your assets



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As many are aware, the ability to make it onto the property ladder has now become quite the challenge. It is clear that it is easier to achieve this goal as a couple.

For farmers in particular, their assets are significant and have often been passed down generations. It is therefore essential to have knowledge of fundamental law that can have a significant impact on your assets.

The Property (Relationships) Act 1976 (the Act) governs the division of property when a couple separates or one party dies. The general rule is set out in section 11, which outlines that each party is entitled to share equally in relationship property.

Entering into a new relationship can be a memorable moment in a person's life that offers a number of opportunities that may not be achieved by a single individual.

A common misconception is that this Act only applies to married couples. However, the act covers marriages, civil unions and de facto relationships. De Facto relationships are relationships between two people that are living together. This covers a number of relationships in our modern society.

The family home is classified as relationship property and does not have to be owned by both partners, it just has to be your primary residence. Farmers with multiple dwellings on the property should seek legal advice.

As lawyers, a number of concerns alarm if only one party owns the home and their only asset is the equity in the home. If this relationship was only to last say four years, on separation, that home owner could have a relationship property claim bought against them and the other partner could be entitled to 50% of that family home. This could also be the case if that home owner dies, their surviving partner could bring a claim against the estate.

Alternatively, if you are purchasing a home together and contributions are unequal, your separate property becomes intermingled in the family home and would be subject to the general rule of equal division of relationship property.

It is important to seek legal advice if you enter into a new relationship. Under section 21 of the Act, a 'Contracting out Agreement' can be entered into to avoid these kind of situations. A Contracting out Agreement (commonly referred to by its American term 'pre-nup') classifies separate property from relationship property. This agreement dictates how your property will be split in the event of separation or death. It may be easier to have these conversations early in a relationship, before it becomes an expectation that the family home is relationship property and you are risking losing half your assets due to this legislation.

As discussed earlier, farmers have property assets that may be significant, which raises the importance of protecting them.

If you begin a new relationship and the farm house is your family home, this should be protected. It is wise to enter into these agreements early in a relationship, especially if you are still determining whether the relationship will stand the test of time.

Farms are often family assets, with strong

history that have been passed down generations. This makes it even more important to protect them from relationship property claims. This importance was demonstrated in the case of *Rose v Rose*.

Mr Rose, along with his father and brother owned farming property in Blenheim. When his father passed, he received inheritance. His wife, Mrs Rose, had a job outside the farm and contributed to the expansion of the farm by running the household.

Upon separating with his wife, Mrs Rose was successful in her relationship property claim and was awarded 40% of the increase in value of the farm during their relationship, despite not having ownership of the farm herself.

This case further demonstrates the importance of protecting your assets. A simple chat with a lawyer now could protect your assets and save you significant money in the long run. Relationships add a layer of complications to the ownership of your property, we recommend seeking legal advice if you have any concerns in this regard.