

## Short Marriage Claim Gets Short Shift

In **Hopkins [2015] FCCA 2625** Judge Burchardt was not persuaded by the merits of the wife's claim for a property settlement adjustment in the following circumstances:

- the parties cohabited for only three years and two months;
- the husband was aged 66 and self employed earning about \$100K but suffered from a serious health issue which had the potential to detrimentally impact upon his future income earning capacity;
- the wife was aged 52 and earned about \$45K;
- the parties did not commingle their finances;
- The husband made by far the greater financial contribution during the marriage, both because he had the greater income and also because the wife did not work for some 18 months;
- The assets of the parties at the time of the hearing were as follows :
  - Husband \$776K plus \$350K of superannuation, and
  - Wife \$472K plus \$50K of superannuation;
- the vast majority of the assets available to the parties upon their separation were already owned by them before the relationship commenced.

The Judge referred to the High Court's decision in the case of Stanford [\[2012\] HCA 52](#) where it was made clear that:

[Section 79\(2\)](#) of the Family Law Act provides that **the court shall not make an order for property adjustment unless it is satisfied that, in all the circumstances, it is just and equitable to make the order.**

Before applying that statement of principle to the facts of this case, the Judge stated that he did not propose to waste his time seeking to disaggregate the precise details of expenditure by the parties during their relationship in the minute detail they had both set out in their affidavits and evidence.

He summarised their voluminous submissions in this regard by dismissively noting, as usually happens in these cases, that both of them had contributed as best as they reasonably could in the circumstances.

In any event, the Judge also noted that if ever there was a case that cried out for the sort of treatment indicated by the High Court in *Stanford*, this must surely be it.

Both parties had already amassed the vast majority of the assets they owned well prior to their short marriage and while apologising for his bluntness, the Judge concluded, that in the circumstances of this case, it was simply not just and equitable that there be any property adjustment between the parties and simply dismissed the wife's claim.