

Weighing Up Contributions When They're Simply Overwhelming (No 2)

In **Fraser [2015] FCCA 2777** the parties cohabited for a period of about 6 years and there were no children of the marriage.

At the time of the hearing the husband was aged 47 and the wife 54.

The Husband introduced assets to the relationship of approximately \$1.8M and the wife approximately \$470K.

At the time of the hearing the parties' total net assets (including combined superannuation account balances of just over \$100K) totalled @\$2.18M of which @\$1.8M was at that point controlled by the husband and \$380K by the wife.

Judge Sexton noted that as the husband's initial contributions were obviously significantly greater than those of the wife and represented the majority of the value of the assets now available for division between the parties, his initial contributions should be given substantial weight.

Assessment of Contributions

The parties' non-financial contributions were approximately equal apart from the wife's greater contribution to domestic day to day tasks.

The wife submitted that there should be a 15-20% adjustment in the husband's favour to reflect his initial financial contribution compared to the husband's submission that the adjustment in his favour should be 35%.

The factors to which the Judge referred in this context were the relatively short period of the relationship, the husband's substantially greater initial financial contributions than those of the wife, the husband also received substantial lump sum payments during the marriage to which the wife had made no contribution and the husband was the more consistent income earner.

Having regards to all these findings, the Judge assessed the husband as being entitled to a 29% adjustment in relation to contributions.

The future financial needs factors to which the Judge referred were as follows:

The age and state of health of each of the parties

The seven year age difference meant that the husband was likely to have a greater future opportunity to generate income and therefore acquire assets, borrow to invest and contribute to superannuation.

The income, property and financial resources of each of the parties and the physical and mental capacity of each of them for appropriate gainful employment

The husband earned more than the wife by way of salary and with carried forward tax losses of @\$135K to offset against future income was considerably better resourced financially than the wife by way of income.

Upon weighing the factors referred to above, Judge Sexton decided the wife would receive an adjustment in her favour of 5% for the differences in the parties' 'future financial needs'.

This resulted in the net assets of the parties being divided 26% to the wife and 74% to the husband.

This compares with the 23/77 outcome in **Zimin & Nickson [2014] FCCA 206** which also involved an overwhelming financial contribution by one party.