

Are All Contributions Equal in 'Big Money' Cases ?

During the 1990's there was a thread of Family Court cases which indicated there could be circumstances in so called 'big money' cases where one spouse was credited with having been responsible for the accrual of substantial wealth in which the *breadwinner and homemaker/parent* contributions would not necessarily be considered of equal value.

In nearly every case it was the husband who made this claim and while not always successful, the cases summarised by **Kirk SC** in the recent case of **Smith v Fields** illustrated that when the argument was successful the consequences were significant. However the cases of the last ten years had seemed to have consigned this argument to history.

Only time will tell whether the **2012** decision of the single Judge in **Smith** (summarised below) is the portent of a changing philosophy or merely an aberration, to be reversed on appeal.

	Smith [2012] FamCA 510	JEL [2000] FamCA 1353	Ferraro (1993) FLC 92-335	Webster [1998] FamCA 1517	McLay (1996) FLC 92-667	Whitely (1992) FLC 92-304	Phillips [1998] FamCA 1551
Business activity providing source of wealth	Building industry	Mining industry	Property development	Corporate restructuring	Investment & Property development	Renowned artist	Public float of a building company
Assets at start	Minimal	Minimal	Minimal	Wife beneficiary of parent's trust	Modest	Nominal	Nominal
Period	29 years	16/20 years	28 years	15 years	21 years	27 years	31 years
Children	3	4	3	3	1	1	2
Assistance with children by husband	Some	Significant	Negligible	Some	Minor	Average	Limited
Work by wife in business	Some	None	None	Significant	None	Not significant	Significant early
Separation to trial period	4 years	8 years	1½ years	1½ years	1 year	1 year	3 years
Dependent children (post trial)	None	None	1	3	None	None	None
Trust issues	None	Many	None	Children's trust of \$5M	?	?	?
Pool	\$30- 40M	\$40M+	\$12M	\$21.3M	\$8.8M	\$11.3M	\$25M
% to Wife	40%	27½%	37½%	27½%	40%	30%	40%
Dollars	\$13-16M	\$10M	\$4.5M	\$6.6M	\$3.5M	\$3.4M	\$10.3M

Certainly it would still take a brave legal advisor to encourage a client to run the argument that their breadwinner contribution during the marriage was of greater value than that of the homemaker/parent spouse.