

## **Are Trade Creditors a Relevant Farm Valuation Consideration?**

In **Nickson [2013] FCCA 1798 Judge McGuire** was required to consider to what extent he should discount the matrimonial valuation of a farm as a going concern in circumstances where trade creditors were significant.

The husband claimed that a debt in the sum of \$143K to agricultural suppliers (who continued to supply him) should be taken into account as a liability of the marriage.

However the Judge considered that the nature of farming enterprises is such that goods are frequently provided on credit and satisfied from the proceeds of harvest or the sale of stock, as the case may be and to simply attribute a debt to the supplier in such a quantum as a liability of the marriage failed to take into account the “seasonal” nature of farming.

That is, should the application have been heard at another time of the year then the debt may well have been satisfied from the recent proceeds of harvest or sale of stock.

In all of those circumstances and given the ongoing benefit to the husband of the farm, the Judge considered that justice and equity would not be served on the wife by including this liability in calculating the net pool of property to be divided between the parties.

The Judge observed that to do otherwise would impose on the wife a share of a liability without giving her the benefit of ‘crops in the ground’ or ‘fattening stock’.

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