

Assessing Initial Financial Contributions and Future Financial Needs

In **Moreman [2013] FamCA 360 Cleary J** had to consider both:

- the weight to attribute to the husband's initial financial contribution in the form of the equity in the house which he had acquired five years before the commencement of cohabitation; and
- the parties' different income earning capacities,

in the context of a twelve year relationship which produced two children whose post-separation care the parties shared equally.

In 1993 the husband had paid \$207K for the home of which \$173K was borrowed. He subsequently built and fitted out a granny flat at the rear of the property in which the parties later lived for two years while he undertook repairs and improvements to the home and grounds.

There would appear to have been no evidence as to either:

- the value of the property; or
- the amount of the mortgage,

when the relationship began in 1998.

However the parties' equity in that home at the end of their 12 year relationship was more than \$800K.

While the Judge made it clear early in his Reasons for Judgment that 'significant weight must be given to the provision of the home by the husband', the perennial issue in such cases is the Court's discretionary assessment of:

- how much weight to attribute to such initial financial contributions,

particularly when a substantial mortgage is serviced by the joint efforts of the parties during their relationship.

In this instance the Judge concluded that the parties having made equal contributions during the 12 years of their relationship, the husband's introduction of his equity in the home justified an overall assessment of the parties' respective contributions at 65/35 in favour of the husband.

In moving on to compare the parties' future financial needs the Judge took account of:

- their similar ages and good health;
- their physical and mental capacity for employment;
- the wife's substantially lower income earning capacity which significantly reflected the periods she had spent out of the paid workforce while the children were younger and then re-entering the workforce at the same level (wife's current weekly income, wage \$450, child support \$200 compared to husband's weekly income of \$2,076) and
- their equal shared care and control of the children.

Taking all these factors into account, especially the ongoing income disparity, the Judge made a 'financial needs' adjustment in the wife's favour of 10% producing a final 55/45 outcome in the husband's favour.