

The Financial Obligations of a High Income Earner

In Carroll and Maybury [2013] FCCA 288 Judge McGuire assessed spousal maintenance and child support obligations as well as the terms of a property division in the context of a case involving one high income earning spouse and a relatively small pool of assets.

The parties were in their early 40's and had separated after about 12 years of cohabitation, the husband conducted his own business (to which no value was attributed and while not identified in the judgement was likely a specialist medical practice) from which he was earning about \$500K pa, there were three children aged 6-10 in the primary care of the wife who earned a low income working part-time.

The parties' net asset pool totalled approximately \$630K which included \$445K being the net proceeds of the former matrimonial home which had sold for \$1.9M together with \$200K of superannuation.

The wife sought:

- **a 25% (75/25) adjustment** of the net asset pool in her favour by reason of the relevant section 75(2) 'future financial needs' factors of:
 - the responsibilities associated with the care of three young children; and
 - the substantial income earning disparity.

Upon considering the above section 75(2) factors and the husband's submission for a 15% adjustment, the Judge awarded the wife:

- 70% of the 'non-superannuation' pool of assets; and
 - 60% of the superannuation assets.
- **spousal maintenance of \$1,000** per week until the youngest child completed his primary school education, when she proposed to seek further employment.

Upon considering the wife's spousal maintenance application and the husband's submission that it be dismissed, the Judge was satisfied that:

- the wife was employed to her capacity given her responsibilities for the care of the children and the lack of flexible employment alternatives; and
- the wife's reasonable weekly living expenses were \$1,129 compared to her potential net weekly income of \$670;

and awarded her spousal maintenance of \$450 per week until the youngest child completed primary school (without ruling out the possibility of a further claim at that time).

- **child support departure order** consisting of:
 - periodic child support in excess of the husband's assessed liability;
 - all school related expenses including fees; and
 - private health insurance

Upon considering the husband's submission that the child support departure application be dismissed, the Judge ordered that:

- the husband pay periodic child support as assessed;
- all school related expenses including fees; and
- private health insurance.