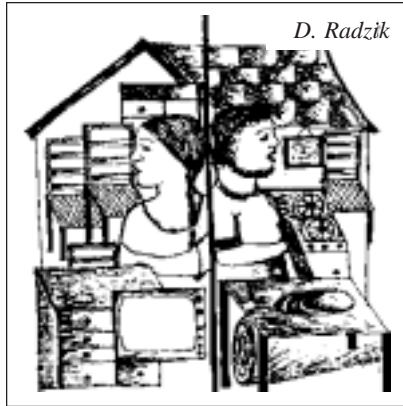


The Married Persons Property Act

Before the Married Persons Property Act (MPPA) was amended in 1990 the High Court had no power to alter property rights in disputes between wife and husband.

This caused great hardship, e.g. if the matrimonial home was in the husband's name alone the Court could not award the wife a share in it unless she had put money towards its purchase or improvement, although for many years she may have looked after the home, her husband and children.



NOW the high Court can make any order (including an order for sale) in relation to any property in dispute between husband and wife.

DOES THE ACT ONLY APPLY TO COUPLES WHO ARE LEGALLY MARRIED?

No, but if a couple are not legally married they must:

- (a) have been living together, and
- (b) both be single, i.e. widowed, divorced or not legally married to someone else.

WHAT CAN I GET?

If you make an application in respect of property owned by your wife/husband what you can get depends upon:

- (a) how long you have lived together; and
- (b) whether or not you have worked outside the home.

- **If you lived together for less than 5 years** the court has to take into account your contribution to the marriage and the welfare of the family, including any contribution made by looking after the home and caring for the family.
- **If you lived together for more than 5 years and you did not work outside the home**, the court must **award one third** of the property in dispute to you.
- **If you lived together for more than 5 years and you worked outside the home** the court **must award one half** of the property in dispute to you.

WHAT IF THE PROPERTY HAS BEEN SOLD?

The Court can order what shall be done with the proceeds of sale or make an order in respect of property bought with the proceeds of sale.

WHO OWNS SAVINGS FROM HOUSEKEEPING MONEY?

If your wife/husband gives you money to pay household expenses any money left over or property bought with money left over will belong to both of you in equal shares unless you have agreed otherwise.

WHAT GENERAL RULES APPLY TO OWNERSHIP OF PROPERTY DURING MARRIAGE?

1. You each continue to own property, which you had before the marriage.
2. If property is bought in both your names jointly, you will each own an undivided half of it. You can each sell your undivided half share without the consent of the other but it is usually difficult to find a buyer for an undivided interest in property. If one of you dies the other will automatically inherit the dead person's share and become the owner of the whole property. Either of you can stop this happening by "severing the joint tenancy" i.e.

changing from joint ownership to ownership **in equal shares** (see 3 below).

3. If property is bought in both your names in equal shares you will each own an undivided half of it. You can each sell your undivided half share without the consent of the other but it is usually difficult to find a buyer for an undivided interest in property. If one of you dies the other **will not** automatically inherit the dead person's share so you can each leave your share to someone else in your will.
4. If your husband buys property and puts it in your name it is presumed that he has given it to you.
5. If your wife buys property and puts it in your name it is presumed that she is still the real owner.
6. If property is bought in the name of your wife/husband but you put a lot of money toward buying it or improving it you have a right to a share in the property. The amount of your share will depend on the size of your contribution. If your wife/husband does not accept that you are entitled to a share in the property you can ask the Court to decide the matter.
7. If property is bought by and in the name of your wife/husband she/he can sell it without your consent. But you can bring a claim under the MPA. (And see above under "What if the property has been sold?")

N.B.

- (1) 4 & 5 only apply to legal marriages. The others apply whether or not the parties are legally married.
- (2) (2) The presumption at each of 4 & 5 can be negated by evidence of a different intention, e.g. that the property was to be jointly owned.
- (3) Remember that to be able to bring a claim under the MPPA (see 7) you have to be legally married or be single and have been living with a single wo/man.
- (4) Both parties to a legal marriage have the right to live in the matrimonial home as long as the marriage lasts whether the home is owned by one or both of them.