

My former partner is delaying our property settlement

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Separation is challenging enough without added stress from delays in resolving your property settlement. When a former partner causes delays, it can affect finances, housing stability and your ability to move forward emotionally and practically.

In Australia, property settlements can be negotiated privately, through lawyers, mediation or, if necessary, court proceedings in the Federal Circuit and Family Court of Australia (FCFCoA). Delays can arise for many reasons, but you are not expected to wait indefinitely or accept unfair tactics. Understanding why delays occur and what steps you can take is important in protecting your financial future.

Why delays in property settlement can occur

Delays are common, and they do not always mean a former partner is acting in bad faith. Sometimes delays happen because people feel overwhelmed by the separation or the legal process, or they are unsure about their entitlements. In other cases, delays may be strategic or financially motivated.

Common reasons for delays may include:

- emotional difficulty accepting the end of the relationship;
- belief that delays may change the overall outcome;
- lack of financial information or organisation;
- attempting to increase bargaining power;

- belief that property values may increase;
- avoidance of conflict;
- refusal to engage in mediation or negotiations; or
- intentionally running out time to apply to Court.

Regardless of the reason, delays can be financially damaging and emotionally draining.

Time limits for property settlement in Australia

There are limitation periods (or time limits) that apply to commencing court proceedings for property settlement:

- Married couples must resolve their property settlement or make an application in the FCFCoA within 12 months of the date of divorce. For this reason, we generally advise that you resolve all outstanding financial matters prior to making an Application for Divorce; and
- De facto couples must resolve their property settlement or make an application in the FCFCoA within 2 years of the date of separation.

If the limitation period expires, you can still apply to the FCFCoA, but you will require leave (or permission) of the Court to proceed. This is not guaranteed, and you will need to establish hardship. Acting early helps avoid unnecessary costs, stress and protects your rights.

Why delays matter

Generally, it is beneficial for property settlements to occur as soon after separation as possible. Delays can affect:

- property values;
- superannuation balances;
- liability for debts and loans;
- entitlement arguments based on contributions;
- cash flow and the ability to re-establish yourself financially.

Disclosure obligations

Both parties must provide full and frank financial disclosure. This means exchanging relevant documents in relation to your assets, liabilities, income and superannuation.

If your former partner refuses to provide full and frank financial disclosure, the Court can:

- make orders requiring same;
- impose cost penalties; or
- draw negative inferences.

Disclosure is a cornerstone of the family law process. It ensures transparency and allows informed negotiations and outcomes.

Practical steps if your former partner is delaying your property settlement

If you believe your former partner is intentionally causing delays, these steps can help progress things:

- Request disclosure and communication within reasonable timelines;
- Engage a family lawyer to formalise requests and set expectations;
- Make a settlement offer to encourage negotiations (if you have sufficient information to do so);
- Propose mediation or family dispute resolution;
- Seek independent valuations where necessary;
- Keep written records of communication and attempts to move things forward;
- Give notice of your intention to make a court application; and
- If all else fails, commence proceedings in the FCFCoA.

Starting court proceedings does not impede negotiations. Rather, in many cases, doing so will often motivate the other party to engage in the process in a meaningful way.

Going to Court

Court is generally a last resort, but it may be necessary when one party refuses to act in good faith. Once proceedings start, the Court will usually:

- make orders for disclosure within a specified time;
- require attempts at dispute resolution;
- order valuations if needed;
- issue directions to keep the matter moving.

Most property matters resolve by consent at some point within the court process and rarely require determination by a Judge. Court proceedings can be important to ensure progress and accountability.

Warning signs of strategic delay

These behaviours may suggest a deliberate attempt to stall settlement:

- Ignoring reasonable requests for information or documentation;
- Cancelling meetings without valid reasons;
- Sudden asset movements or refinancing attempts;
- Claiming confusion but refusing legal advice;
- Stating they are “not ready” without providing a reasonable timeline;
- Suggesting informal and unfair deals.

If you see these signs, seek legal advice promptly.

Protecting assets during delays

If you are concerned your former partner may sell or hide assets, options include:

- applying for injunctions to stop the disposal of property;
- lodging a caveat if you have a legal interest in real estate;
- seeking urgent Court orders to prevent the dissipation of assets.

Fast action is often critical in these situations.

Frequently asked questions

Do I have to wait until I am divorced to start property settlement negotiations?

No. You can resolve property matters at any time after separation.

What if my former partner refuses to negotiate?

You can propose mediation and, if necessary, file Court proceedings.

Can my ex run out the clock on the limitation period?

If time is running short, you can file a court application to protect your entitlements.

Does going to Court mean we will have a trial?

Not necessarily. Most matters settle by consent, with Court oversight speeding up cooperation.

Get help from a family lawyer

When a former partner delays property settlement, it is natural to feel frustrated and uncertain. However, you do not have to accept delays that affect your financial stability or sense of closure.

Australian family law provides clear pathways to encourage cooperation and ensure property matters are resolved fairly and efficiently. Early advice, structured communication, and, when needed, Court intervention can help you move forward and protect your financial future.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.