



How is property settlement dealt with in short relationships or marriages?

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When a relationship or marriage ends, one of the biggest concerns is how property will be divided. For couples who have only been together for a short time, property settlement can be more complex than expected. The *Family Law Act 1975 (Cth)* ('the Act') provides the framework for how property is divided. The length of the marriage or the de facto relationship is one of the considerations that the Court considers when determining what is a [just and equitable property settlement](#).

This article explains how property settlements are handled in short marriages or de facto relationships in Australia and what factors the Court takes into account.

What counts as a short relationship or marriage?

A "short relationship" is not defined by a strict timeframe under the Act. However, Courts typically treat de facto relationships or marriages lasting less than five years as short. A relationship is taken to have commenced from the date the couple started *living together*, not the date the couple started dating.

How property settlement works under Australian law

The Act governs property settlements for both married and de facto couples (except in Western Australia, where different laws apply to de facto relationships).

When the Court divides property, it follows a [four-step process](#) to decide what is just and equitable:

1. Identify and [value the property](#), assets, debts, superannuation and financial resources of both parties;

2. Assess each party's contributions to the relationship;
3. Consider the parties' current and future circumstances, such as earning capacity, health, age, and whether one party is caring for children; and
4. Determine what division of property is just and equitable in the circumstances.

In short relationships, the second step (assessing each party's contributions) is usually the most important. The shorter the relationship, the less likely it is that the parties' finances have been intermingled and/or the less likely it is that one party's day-to-day contributions have balanced out the other party's financial contributions.

Financial and non-financial contributions

The court looks closely at who contributed what to the relationship. Contributions can include:

- **Financial contributions**, such as wages, savings, inheritances, property purchased before or during the relationship, and mortgage or bill payments;
- **Non-financial contributions**, such as renovations, home improvements or unpaid labour that increased the value of property; and
- **Homemaker and parenting contributions**, which include managing the household and caring for children.

In short relationships without children, financial contributions tend to carry more weight. This means that if one partner brought most of the assets into the relationship or made significantly greater financial contributions to the acquisition, maintenance or improvement of the asset pool during the relationship, they will usually retain a larger share of the available assets when the relationship ends.

The extent of any adjustment in this partner's favour will also depend on the current and future circumstances of both parties.

Property brought into the relationship

One of the biggest factors in short relationship property settlements is **initial contributions**. The court will ask: what did each person own or owe at the start of the relationship?

For example:

- If one partner owned a home and the other moved in, the homeowner's initial contribution will be given significant weight (the weight given to this contribution will be dependent on the equity in the home when the parties commenced living together);
- If both partners purchased a property together but one paid a larger deposit or made most of the repayments, this will be recognised.

Because the relationship was short, the Court is less likely to see the property as a shared or equally earned asset. This will, of course, be dependent on the circumstances. For example, if the non-homeowner made improvements to the home that increased

its value, that contribution will also need to be considered.

Current and future circumstances - the impact of children in short relationships

When considering the current and future circumstances of the parties, the Court will look at the extent to which the relationship or marriage has affected the earning capacities of the parties. The biggest impact on the earning capacity of one partner is likely to be where there is a child or children of the relationship.

When there is a child or children, even in a short marriage or de facto relationship, the settlement can change significantly. The court considers the current and future circumstances of the partner who will be the primary caregiver, including:

- time spent caring for children;
- impact on their ability to work or earn an income; and
- ongoing expenses related to raising a child or children.

This may lead to a greater share of the asset pool being awarded to the caregiver, to ensure the child or children's welfare is supported.

Without children, settlements are generally closer to a reflection of each person's direct contributions.

Superannuation in short relationships

[Superannuation is treated as property under the Act](#). Even in short relationships, it can be divided if appropriate.

In some short marriages or de facto relationships, the difference in super balances is not large enough to justify splitting and therefore, a split may not be appropriate.

However, where one partner's superannuation has significantly increased during the relationship (for example, because that partner earns substantially more than the other), the Court may make a modest adjustment.

Superannuation splitting can occur either:

- by agreement, formalised through a binding financial agreement or consent orders; or
- by court order, if parties cannot agree.

These matters can be nuanced. If you have separated from your partner and are considering whether a superannuation split is appropriate, it is sensible to seek legal advice.

[FREE ADVICE FROM A FAMILY LAWYER: 03 9006 8907](#)

When de facto relationships are treated differently

For de facto couples, property settlements are available under the Act if the parties were in a genuine de facto relationship that has broken down.

In very short relationships, the person seeking to make a property settlement claim may first need to establish that a de facto relationship exists. For more information in relation to this issue, we recommend reading our article, [“De facto property settlement in family law.”](#)

Practical tips for couples in short relationships

If you have been in a short marriage or de facto relationship and are separating, consider the following steps.

- **List all assets and debts** clearly, including property, vehicles, superannuation and loans;
- **Keep records** of what you owned before the relationship and any significant financial contributions you made during the relationship;
- **Seek legal advice early**, particularly if you brought major assets into the relationship;
- **Consider mediation**, which can help resolve property disputes faster and at lower cost;
- **Avoid informal agreements** without proper documentation, as they may not be enforceable; and
- **Formalise your settlement** with consent orders or a financial agreement to make it legally binding.

Taking these steps helps protect both parties and reduces the risk of future claims.

Get help from a family lawyer

Property settlement after a short de facto relationship or marriage depends heavily on who contributed what and whether there are children involved. Every situation is different; it's important, therefore, to get legal advice before finalising any agreement.

A family lawyer can explain your rights, assess your contributions, and help you reach a fair outcome that aligns with the law.

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.