

Dividing property during a divorce



A HOME is the heart of a family, but when that family is broken apart by divorce, financial hell can break loose on the home front.

One-in-three marriages in Australia end in divorce and after the children, the house is often the biggest battleground among feuding former spouses.

So how do you work out the financial factors surrounding the family home in a divorce? A house obviously can't be split into two like assets such as shares and super, and in many cases one parent will want to keep the home to give the children some kind of normalcy in such a painful situation.

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My parents divorced when I was just 10, and I still clearly remember the day they asked me which parent I wanted to live with. Unable to choose mum or dad, I picked the family home.

Jones Mitchell Lawyers specialist family lawyer Dan Bottrell says there is no set formula about dividing property assets, and it often depends on the divorcing couple and what suits them and their children.

He says if couples fight about who gets the house, the Family Court of Australia has the power to order one spouse retains it. If the couples can't agree on the value of the family home, professional valuers can be called but the Court prefers they use a single expert rather than argue over whose valuation is correct.

A common strategy for splitting couples is to give one partner the home and the other partner an equivalent amount of the couple's superannuation, which these days can be worth plenty.

Keeping the family home is one thing. Paying for it is another.

Bottrell says if a mortgage is involved, the person wanting to keep the home must prove that they can afford it and be able to refinance the loan into their sole name.

Financing a property as a single person can be extremely tough, but these days some mortgage lenders have products designed to help single parents. Repayment holidays and interest-only options are among the strategies that single parents can examine.

The key is communication. Talk to the bank or other lender, because many of them will be sympathetic.

Divorce is going to be emotionally tough, and sometimes financially tougher, but if possible it's usually a good idea to

SOURCE: <http://www.news.com.au/finance/money/dividing-property-during-a-divorce/story-e6frfmci-1226925018497>

examine all the options for keeping hold of the home and avoiding the high transaction costs that can suck the value out of a property.