



# Family law property settlement

## THE FOUR STEP PROCESS COURTS USE TO DETERMINE YOUR ENTITLEMENT

# 1

**Identify &  
value the  
assets &  
liabilities**

# 2

**Assessing each  
person's contribution  
to the relationship &  
property**  
(s. 79(4) Family Law Act)

# 3

**Identify future  
needs & resources  
factors**  
(s. 75(2) Family Law  
Act) "the s. 75(2)  
factors"

# 4

**Overall justice &  
equity - is it fair in  
the circumstances?**  
(s. 79(2) Family Law Act)



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## THE FOUR STEP PROCESS

### 1 Identify & value the assets & liabilities

- property owned when relationship started
- capital gain of property already owned
- property acquired during relationship
- property acquired after separation
- employment entitlements
- superannuation
- life policy surrender values
- business interests, company or trust interests
- money owing to the parties
- compensation & damages awards
- inheritances
- lottery wins (see windfalls in step 2)
- notional property that needs to be added back
- debts and mortgages
- borrowing capacity

### 2 Assessing each person's contribution to the relationship & property (s. 79(4) Family Law Act)

- financial contributions direct or indirect
- non-financial contributions
- contributions as a homemaker or parent
- effect of orders on earning capacity
- s. 75(2) matters (see list at step 3)
- any orders affecting a party or child
- child support
- windfalls
- special contributions
- waste or negative contributions
- effect of domestic violence

### 3 Identify future needs & resources factors (s. 75(2) Family Law Act) "the s. 75(2) factors"

- age & health of the parties
- income, property & earning capacity
- financial resources
- whether caring for children
- commitments to support themselves, children or another
- pension entitlements
- a standard of living that is reasonable
- enabling a course of education
- extent of contribution to the earning capacity of the other
- duration of marriage & how that affected earning capacity
- protection of the role of parent
- if cohabiting with another, the financial circumstances relating to that
- effect of the proposed orders
- any child support
- any other factors it would be just to take into account
- any binding financial agreements

### 4 Overall justice & equity - Is it fair in the circumstances? (s. 79(2) Family Law Act)

*"The court shall not make an order ... unless it is satisfied that, in all the circumstances, it is just and equitable to make the order."*

#### Note:

- Full & frank disclosure is required
- Finality of orders
- Recorded for future reference