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Categories: family home; no need to provide for adult children; pooling of resources

Wife's name added to deeds of house in divorce proceedings

As part of divorce proceedings, the judge in Dublin Circuit Family Court ordered that an applicant husband in poor health be given right of residency in his home, but that the respondent wife's name also be put on the deeds of the property. The Court heard that only the applicant's name was on the deeds of the house even though the couple had been married for almost 20 years.

The applicant had three children from a previous marriage, which had ended in divorce and a settlement, but the property remained in his name.

His barrister told the Court that her client had paid the mortgage and he hoped to leave the property to his three children who had taken care of him in recent years. He offered to pay the wife €40,000 as part of the settlement.

The wife said that since moving in with the husband she had paid €600 a month towards the €1,200 monthly mortgage repayment. She said she wanted them to be made tenants-in-common so that she would receive 50 per cent of the house if he were to pass away before her.

The marriage had broken down in 2020 and the wife had now been residing with her new partner for three years, but had no assets or pension, leaving her with no security, her counsel said.

Husband's evidence

The husband gave evidence that the couple had been in an on/off relationship for a number of years before marrying in 2007. He had remortgaged his home in 2005 after divorcing his first wife. The mortgage had been paid off in 2014.

He denied the wife had contributed towards the mortgage saying she only lodged the money for him and that he sometimes lodged the cash himself in order to meet the repayments.

The wife 's barrister said her client had paid towards the mortgage for 15 years and lodged €600 of her own money towards the €1,200 monthly repayment. She said she was paid in cash and did not have any lodgement dockets to prove it. Counsel said the mortgage repayment was not €1,200 a month and in fact her client had overpaid. The said she also paid for groceries and some utilities. She also gave evidence she had given up working to care for the husband.

The judge said she was satisfied there was no prospect of reconciliation between the parties. She noted the applicant had serious health issues and lived alone in the family home. She also said that since the couple were married, it "was inappropriate to conduct a tracing exercise".

In her judgment, she said she was satisfied, from the evidence, that there had been a pooling of resources.

The judge noted the husband wanted to leave his home to his children and retain it for the purposes of applying for the Fair Deal Scheme. However, she said grown-up independent children do not have to be considered.

She noted that by paying rent to her new partner the wife's position was not secure. The wife wanted the property to be put into tenants-in-common ownership "not even joint tenants," the judge added. [Joint tenants would have entitled her to inherit the whole house.]

The judge also noted that the applicant's health was very poor and he might need to access the Fair Deal Scheme.

Granting the divorce, she ruled that the wife's name be added as a tenant-in-common, and the husband have the exclusive right to live in the family home.