But for the Plan

Equalization of Family Property - Why You Need A Lawyer

Mr. J. came to our Oakville office five years after he had separated from his wife A.

By this time, without either party obtaining legal advice, their home that they bought a year after they married. and lived in for almost 20 years, had been sold, with the proceeds of sale divided equally between them.

There were also temporary provisions in place for child support and spousal support. But the division of J's workplace pension had not been negotiated, and J. decided to use his Plan benefit and see a lawyer about this last piece of the puzzle. Very wise of J. to do so!

J. told our office that he thought every financial asset was simply divided in half between spouses; he did not think he could negotiate a more favourable deal *regarding his pension*.

But when Dara Church, an experienced family law lawyer in our Oakville office, carefully reviewed all the circumstances, she explained that there was one important detail that was not properly addressed. The money that J. brought into the marriage from the proceeds of sale of J.'s former house (bought by him before they married and sold by him shortly thereafter) should not have been included in J.'s net worth (called "Net Family Property").

This is called a "date of marriage deduction", the effect of which was that A. had received about $125,000 more than she was entitled to from the sale of their home.

Coincidentally, this was about the same as the value of A.'s share of J.'s pension at their date of separation. On these unique facts, Dara was able to convince A.'s lawyer that the easiest way to address this would be for A. to give up any entitlement to J.'s pension.

But for the Plan, J. would have been out approximately $125,000!

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Submitted by Dara Church
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