

Financial Orders on Divorce

Last month (October), there was a lot of publicity about two divorce cases that were dealt with in the Supreme Court.

In each case, the wives were challenging their divorce settlements after their husbands were found to have misled them over their wealth.

In the first case, Mrs Sharland and her husband had on the face of it divided their assets 50/50 after 17 years of marriage. Mr Sharland was an entrepreneur who had a substantial shareholding in a software business which he developed. In the financial proceedings between the parties the value and distribution of this shareholding was the main matter in dispute and both parties instructed valuers on the basis that there were no plans for an initial International Public Offering (IPO) flotation of the Company. During the course of the trial, after Mr Sharland gave evidence that there was no IPO “on the cards today”, they reached a settlement. However, it later became clear that her ex husband had misled her and the courts over the value of his business and his plans for a future company flotation. Instead of being valued at between £31 and £47 million, his business was reported in the financial press as being ready to float at a value of \$1billion.

At the Court of Appeal, the Judges agreed that his non-disclosure had been fraudulent but two of the three believed they should not overturn the original settlement because, although his evidence was “seriously misleading”, Mrs Sharland could not show that it would not have led to a significantly different outcome.

The Supreme Court however confirmed that the Court of Appeal were wrong to place such a burden on Mrs Sharland, who was the innocent victim of her husband’s fraud. It was for him to show that his fraud ‘would not have influenced a reasonable person into agreeing the settlement’ and he could not do so. Both Mrs Sharland and the Court had been deceived and she was entitled to set aside the Order and to ask the Court to look at her claims afresh.

In the second case, in 2004, two years after her divorce, Mrs Gohil found out that her husband had not fully disclosed his finances during their divorce, in which she had agreed to accept £270,000 and a car as a settlement. He was convicted of fraud offences and jailed for 10 years in 2010 and during the criminal trial further evidence of the extent of his intentional non-disclosure in the original divorce proceedings emerged.

The Supreme Court held that the duty to make disclosure which is full and frank is absolute. The Court confirmed that Mrs Gohil could revisit her financial claims.

The cases send out clear messages that the Courts will not tolerate dishonesty when dealing with a financial settlement.

For advice about Family Law matters, please contact Heather Weavill or Steven Barratt of Alison Fielden & Co, The Gatehouse, Dollar Street, Cirencester, on 01285 653261 and at www.alisonfielden.co.uk