

Living Together: Be Sure of Your Rights

Cohabitation is on the increase as, for whatever reason, many couples choose not to marry.

The Present Law:-

Time and time again as legal practitioners, we are unfortunately faced with telling a client that unless they are married, the claims they can bring against a former partner are limited. Claims are limited further where:

- There are no children of the relationship (or if they are over 18), therefore eliminating an application under Schedule 1 of the Children Act 1989 for financial provision; or
- Where property, such as the roof over their head, is not held jointly.

It may be possible to establish a 'claim in equity' if it can be said that an 'implied trust' has arisen. This would occur where for example, one partner has contributed towards the purchase of the home, or the upkeep, or has made payments towards the mortgage, thus establishing an interest despite the property not being in their name. It may also be possible to make a claim under the Inheritance (Provision for Family and Dependents) Act 1975 if it can be shown that the Applicant was a dependant.

It may also be possible to claim 'Proprietary Estoppel'. To succeed with such a claim, an Applicant has to prove:

- That one person – normally the property owner – has made a representation, or has given an assurance
- That the other person has relied upon
- To their detriment
- And that it would 'unconscionable' to allow that assurance to be ignored or withdrawn.

That could include for example a situation where the property owning partner told the other partner that 'she would always have a home and be secure in his property', and as a result of the assurances that other partner gave up her local authority home and invested some modest savings in the property owning partner's property.

This remains a complicated area of law. If you are thinking of living together, or thinking of separating and are worried about your rights in the home, contact either Steven Barrett or Heather Weavill of Alison Fielden & Co, The Gatehouse, Dollar Street, Cirencester (Tel: 01225 653261) for further advice.