

## **ROSE –v- ROSE**

The Supreme Court of New Zealand (New Zealand's highest Court) has recently issued a judgment in the case of Rose –v- Rose. This is one of the most important decisions regarding relationship property in recent times. It should be a wake-up call for anybody who is in a relationship and whose property matters have not been dealt with to preserve parties rights.

The brief facts of the case were that Mr and Mrs Rose were in a marriage for 24 years. The marriage failed in 2003. Mr Rose farmed in partnership with Father and Brother and the farm properties were in the Rose Family ownership. Mrs Rose was not an owner and did not work on the farm property. She worked in employment off the farm, kept house, looked after children and made a significant contribution to the family's quality of life.

The general purpose of the Property (Relationships) Act is to provide for the sharing of property which either partner may bring to, or acquire during the relationship. If property is owned prior to a relationship then usually it is excluded from the sharing regime but it may become relationship property in certain circumstances. If the partner who is not an owner of the separate property but contributes to an increase in the value of the other partner's separate property, the increase in value may become relationship property and subject to the rules which are provided for the sharing of relationship property. The important words are contributed "wholly or in part" which make it clear that any contribution (apart from a very minor contribution) will result in the whole of the increase in the value of the separate property becoming relationship property.

Mrs Rose did not seek a share of the whole of the property but sought a division on the basis that she had made an indirect contribution to the increase in value of the farm property. She accepted that she had not worked on the farm and that her husband and his relatives had worked extremely hard to make the farm what it was. She had obtained employment off the farm, had attributed her income to the household, looked after the children and made it possible for her husband to spend most of his time doing the farm work. The Court took the view that Mrs Rose' indirect contributions to the husband's

separate property made a significant difference to the increase in value of the farm property and an award was made in her favour.

Many folk will find the decision unfair and certainly having to pay large sums unexpectedly can cause hardship. On the other hand, would it be fair for Mrs Rose to leave the marriage and not receive some benefit for the contribution which she made and which enabled the farm property to produce as much as it did?

It is therefore essential for anybody in a relationship to consider their position and if there is any possibility of a break up in a relationship an agreement should be entered into to prevent problems of the kind which beset Mr Rose.

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