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MARITAL SPLIT—WHAT HAPPENS TO THE ENGAGEMENT RING

Ted met Honey through an on-line dating service. Next there was a coffee meeting and a relationship spiralled from there. Within three months Ted and Honey decided they were madly in love with each other and so Ted proposed which Honey accepted.

Ted had minimal assets because he had only recently completed his University Education. He had a large Student Loan which he was paying from his salary. Honey however was very materialistic and set her sights on an engagement ring at a local jewellers shop with a price tag of \$25,000.00! While Ted immediately dismissed the possibility of purchasing an engagement ring for \$25,000.00 as a result of it being totally beyond his economic resources. In the end he relented. Honey was a persistent person and the attraction of true love meant that Ted needed to find a solution to the problem.

As he did not have the resources to borrow money he approached his step father Andre. Initially Andre told him he was mad but could see the passion and love that Ted had for Honey so reluctantly he would give Ted all the assistance he could.

Andre contacted a mortgage broker with whom he had a relationship with and arranged a loan through a backyard finance company to assist Ted purchase the engagement ring. Well, Honey was over the moon and the relationship blossomed. The engagement ring was purchased and Ted commenced the monthly payments as he had undertaken a loan over a five year period. Ted knew he had to make the payments because Andre would not be pleased if he missed a payment as Andre had given a guarantee.

After six months Honey went to a social function and ran into Steve who she knew from her school days. Steve was now playing with the Hurricanes and was on the verge of All Black selection. Honey was immediately smitten by Steve's charms. Once again for Honey the attraction was instant and a full relationship developed.

Honey immediately gave Ted the bad news that their relationship was at an end. When Ted found out about Steve he was furious and sought legal advice because he had taken out a loan for \$25,000.00 to purchase the engagement ring. Once he received legal advice from his lawyer regarding his position he was even more furious.

An engagement ring is an inter spousal gift unless of course Honey had purchased her own ring. Ted had purchased the ring and had given it to Honey for their engagement. As the ring is used exclusively by Honey it constitutes an inter spousal gift and is therefore Honey's separate property (S10(3) Property Relationships Act 1976). This means that Ted could not claim half the value back from Honey.

Ted then assumed that Honey would be responsible for half the debt to the finance company. Not so! In order for the debt to be claimed as a relationship debt and shared equally Ted would need to show the debt comes within one of the five limbs in (S21) of the Property Relationships Act 1976. In essence for a debt to be shared it needs to be incurred for the acquiring, improving, or maintaining relationship property. As the ring is classified as Honey's separate property (not relationship property) the debt remains Ted's personal debt.

So Ted was not a happy chap to learn from his lawyer that the engagement ring was to be retained by Honey as her separate property and he would be left with sole responsibility for the debt! And to add insult to injury two days later Ted received an invoice from his lawyer for the legal advice!

20 MINUTE FREE

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