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LENDING MONEY TO CHILDREN TO BUY THEIR HOME

With house prices so high we see more and more parents helping their children out financially to purchase property whether it be gifting money for the deposit, guaranteeing the loan from the bank or lending money.

It is very important that if you are providing funds by way of a loan that the transaction is properly documented. If you do not document the loan carefully then you run the risk of losing your money entirely or losing half of it to a matrimonial claim if your child separates from their partner or spouse.

If there is no proof of paperwork that the advance was a loan, then you risk facing an argument it is a gift and you cannot claim that money back.

Take John and Mary who decided to help their daughter Olivia and her partner Orsino into their first home in Illyria by providing a loan of \$200,000.

John and Mary had a very good relationship with Olivia and Orsino so they did not bother documenting the loan. They all simply verbally agreed that the loan would be repaid to John and Mary when the home was sold.

3 years after the settlement Olivia discovered Orsino was having an affair with a woman named Viola. The couple decided to sell the property and go their separate ways.

Upon the sale of the property Orsino refused to agree to pay the \$200,000 loan back to John and Mary claiming that he thought the advance was a gift.

As a result Olivia was only able to pay back her parents \$100,000 of the loan out of her share of the sale proceeds and there was nothing John and Mary could do as they could not prove the advance had been a loan.

If you are going to lend your child money we strongly advise entering into a loan agreement and securing your loan by way of a mortgage or at the very least a caveat over the property.

If you need help or advice surrounding loans contact one of the team at Collins and May.

20 MINUTE FREE

**WANT to review your Family Trust structure?
THEN call us and take advantage of our 20 Minute Free interview**