

Your Legal Questions

Roberta Ferrari
Partner & Solicitor



Q: I have only been married to my second husband for 3 years but we are not happy and have decided to separate. We bought a house in our joint names 2 years ago using the money from the sale of my previous home as the deposit. My husband has agreed to transfer the house into my sole name and I am going to take over the mortgage. Will this be enough to ensure that he doesn't make any further financial claim against me in the future? We have no current plans to get divorced?

A: No. As you are married unless and until you are divorced and an order is made within the divorce proceedings confirming the financial arrangements then you can both make financial claims against the other and, in fact, the other's estate. If there are no divorce proceedings but you and your husband agree that the transfer of the property into your name will resolve the financial aspects of your intended separation then you can enter a "separation agreement" to reflect that. The agreement can confirm that once the transfer has been completed then neither of you can make a financial claim against the other or the other's estate and that in any future divorce proceedings you would ask the Court to make an order reflecting your agreement. If, when there are divorce proceedings your husband decides to make a claim against you, you will be able to rely on the agreement as showing that you resolved the financial aspects of your separation provided that the agreement confirms that it was based on full financial disclosure and you both received legal advice or had decided not to take legal advice. In your circumstances I think that it would be essential to have a "separation agreement" so that you are sure that no further claim can be made against you whatever should happen to you, financially, in the future. You never know you may win the Lottery!

*Roberta (Bobby) Ferrari is a Partner and Solicitor in the Family Department.
Direct dial 01934 637905 / ferrari@powellslaw.com*