

Your Legal Questions

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Q. I purchased a property jointly with my boyfriend. I paid the deposit and the rest of the purchase price was funded by a mortgage. We shared the mortgage payments and the bills. We subsequently split up and he moved out. I assumed sole responsibility for the original property in which I still live some 10 years later. He is claiming a 50% interest in it despite paying nothing towards it since he left. Is he entitled to a half share?

A. Married couples and civil partners can rely on divorce and similar legislation to ask the court to adjust their interests in a former "matrimonial" home. Unmarried couples must rely on the often unsatisfactory law of co-ownership of residential property. The starting point where a property is purchased jointly, and there is no express declaration to the contrary, is that each party will be entitled to an equal share on any subsequent sale. The difficulty with this presumption arises in cases like yours where the contributions by each party are significantly different. The circumstances in which the court can depart from the presumption has been the subject of a number of recent decisions and the outcome of an appeal to the UK Supreme Court is awaited in another important case. At present one line of cases suggests it is possible to infer from the parties' actions, including their initial and ongoing financial contributions, that they intended their shares in the property to be different from 50/50. The other line of cases takes a much stricter view showing an unwillingness to infer such an intention in the absence of clear evidence and setting a much higher standard to rebut the presumption.

I recommend you seek the advice of a solicitor and that pending the outcome of the decision of the Supreme Court you do not settle any claim.

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