

Your Legal Questions

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Q I have only been married to my wife for 2 years but she has now told me that she wants to separate and the marriage was a big mistake. We bought a house in our joint names just before we married using the money from the sale of my previous home as the deposit. My wife 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 she doesn't make any further claim against me in the future?

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 wife 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. This is often referred to as a "clean break". If, when there are divorce proceedings your wife, for some reason, decides to make a claim against you, you will be able to rely on the agreement as showing that you had 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 your wife can make no further claim can be made against you whatever should happen to you, financially, in the future.

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