



**A D V E N T   A R K**

WE SPEAK YOUR LANGUAGE

**FAMILY LAW WEBINAR**

**Protecting Your Assets  
and Managing  
Relationship Property**

**Presented by Richard Zhao**



# Recognition of Relationship

- Marriage
- Civil union
- De facto partner – determined by:
  - Duration
  - Common residence
  - Sexual relationship
  - Financial dependence
  - Care of children
  - Performance of household work
  - Reputation and public aspect



# Relationship Property and Separate Property

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- 🏠 Family home and chattels
- 🏠 Property owned **jointly after** the relationship commences
- 🏠 Property owned **immediately before** the relationship but in contemplation of the relationship or for joint use
- 🏠 Not separate property
  - Property acquired out of separate property
  - Property acquired not living together

# Separate Property Becomes Relationship Property

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- When **increase in value** is attributable to relationship property or by the other spouse, the increase become **relationship property**
- Property acquired by **succession** or by **trust** or as a **gift** is **separate property** unless intermingled
- **Intermingling**
  - Inseparable such as a bank account
  - Mixture with other relationship property





# Family Trust

- Serves as a shield to relationship property
- Needs to set up before a relationship commences
- Trust needs to be maintained separately from individual
- Trust is not only beneficial for family protection but also good for business risk management e.g. protect from personal guarantee
- Trustee needs to be mindful of his or her duties
- To be discussed more in the next webinar

# Division of Relationship Property

- **Equal Division Principle**
- Relationship of a short duration – Less than 3 years
  - Contribution by one party disproportionately greater
  - Shares according to contribution
- Exception
  - Extradentary circumstance
  - Repugnant to justice
  - Shares according to contribution



# Other Factors That May Affect Division

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- Diminution
- Sustenance
- Misconduct such as disputation dissipation of relationship property
- Contribution
  - Care of children or aged relatives
  - Household work
  - Provision of income
  - Forgoing of high standard living you otherwise would have
  - Assistance in acquiring qualification or operation of business





# S21A / Separation Agreement

- Contract out agreement could bypass the requirement of the Property Relationship Act 1976
- Also includes a pre-nuptial agreement
- Agreement void unless
  - In writing and signed by both parties
  - Each party must have sought independent legal advice
  - Signature must be witnessed by a lawyer

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# Other Matters You Need to Know

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- Notice of Claim could be lodged on the Title of Property to prevent transfers
- Surviving spouse needs to make election
  - Option A – Under the Act for division
  - Option B – Under will or intestacy
- Separation Order
- When do you need to see a lawyer to discuss?
- Proceedings in the Family Court





**Q & A**



**Thank you  
for joining us**



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