

LEGAL MATTERS

The Myth of the Common Law Marriage

Although of marginal interest to surveyor-practitioners, take note of Stack-v-Dowden in the House of Lords early in 2007. The case has legal and financial implications for couples who co-habit, because the law treats them more commercially than it does those who are married.

Stack and Dowden had been living together for 27 years, and had produced four children in the relationship. Ownership of their home should have meant that the proceeds of sale would have been equally divided when they separated, yet their contributions were vastly different, and in its landmark judgement, the House of Lords allowed deviation from equality to account for these contributions. Regrettably for him, Mr Stack's legal costs swallowed up most of the share he had been awarded.

Anyone consequently living together in an 'unmarried' relationship, might be advised to consider entering into a 'Living-Together Agreement'. It needn't be like a 'celebrity prenup', but can be used to sort out day-to-day workings of living together, and protect both parties whatever might happen to the relationship in the future. In fact the agreement helps to organise finances (who pays for what), and avoids the niggling which can sometimes take place about who's paying for food, council tax, gas bills and so forth. Such an agreement can also be of assistance for couples who have co-habited for many years, without marriage in prospect. Indeed an agreement can also be helpful where there is no sexual relationship – in the case of students sharing a house together. Most family lawyers now offer this type of service.

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from Spring Newsletter 08