

KEY DIVORCE RULINGS IN UK

Two landmark House of Lords decisions came out in May. Both are being referred to as "big money" cases because of the awards of considerable sums to the wives in each case.

Mr and Mrs Miller were married for less than 3 years and had no children. Mr Miller was a wealthy fund manager. The property pool was worth £30M. He had an affair. The marriage ended as a result. The lower court had awarded Mrs Miller £5M. The lower court judge decided that she had a "legitimate expectation" of a wealthy lifestyle and Mr Miller's affair was conduct to be taken into account when making the award.

The House of Lords rejected the lower court's reasoning. Misconduct should only be taken into account if it is extreme. Expectations that entering the marriage guaranteed future wealth and a certain lifestyle were not an appropriate basis for assessing an award. The Law Lords nevertheless upheld Mrs Miller's award.

The second case involved Mr and Mrs McFarlane. They were married 18 years and had 3 children. Mrs McFarlane had given up her high earning career to support her husband's career as an accountant. He had an annual income of £750k. The assets of £3M were divided equally by agreement. Mrs McFarlane sought maintenance. Initially she was awarded £250k per annum for life. The Court of Appeal on appeal restricted it to 5 years. She appealed and the Lords reinstated the payment for life. The award was not based solely on Mrs McFarlane's expenses i.e. need, but also on her contribution and compensation for economic disparity suffered as a result of the separation. There were insufficient assets to fund a "clean break" settlement for Mrs M and this was a factor.

NZ law is not the same as UK law and these UK cases do not bind our courts. However, there are familiar strands in these cases which could have a bearing on how our Courts interpret maintenance and economic disparity issues. It is predicted that there will be more prenuptial agreements in the UK as a result of these decisions. In the UK, these agreements are not legally binding. In NZ they are unless shown to be seriously unjust.

These cases are an interesting precursor to the Paul McCartney/Heather Mills split after their 4 year marriage. These rulings would indicate that Heather will receive a substantial award from Paul's rumoured £800M assets and £237M annual income.