

Relationship Property

Contracting Out and Separation Agreements – Presented by Richard Lyttelton (Partner at Govett Quilliam)





Richard Lyttelton

Richard has been a Partner at GQ since June 2023. He is based in our New Plymouth office and leads our Family Law Team.

Richard joined Govett Quilliam in July 2021. He studied law at the University of Otago. Since graduating in 2014, Richard has been practising almost exclusively in family law. Richard has extensive experience in relationship property, estate litigation, care of children, guardianship, Oranga Tamariki and family violence matters.

Richard's broad experience in family law enables him to provide pragmatic advice to clients dealing with issues "from the cradle to the grave". Richard appears frequently before the Family Court and High Court. Prior to working at Govett Quilliam, Richard worked in a large family law team in Auckland.

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Relationship or Separate Property

Separate Property

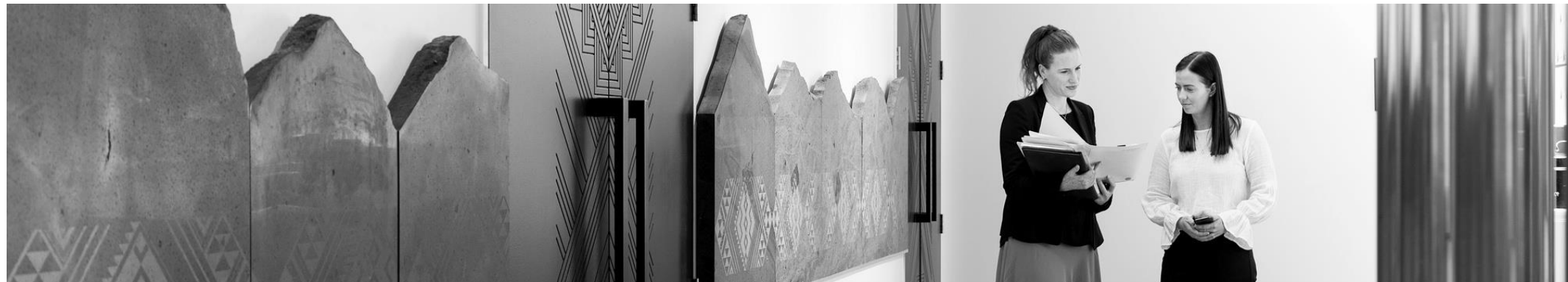
- Property kept separate from relationship
- Property acquired before the relationship
- Inheritance
- Gifts
- Family heirlooms

Relationship Property

- The family home
- Family chattels
- Income
- Joint bank accounts
- Kiwisaver
- Life insurance
- Pets

Note: these are examples. Contact your legal representative for clarification

Contracting Out



Why?

- Protect assets and contributions
- Protect children's inheritance
- Clarity
- Insurance and assurance



How?

- When to get an agreement
- Speak to a specialist family lawyer
- Process
- Formalities
- Reviews



Trusts



Trusts were once thought of as impenetrable. This is not the case.

Trusts

- Not relationship property
- Contributions may be
- Protecting your interest in a trust

Claims

- Constructive trust
- Dispositions of relationship property
- Nuptial settlements

Avoiding Risk

- Contract Out
- Contract Out
- Contract Out



Better Safe than Sorry

- Honeymoon phase
 - Time periods
 - Binding
 - Estate protection
 - Can they be challenged?
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Separations

Disclosure

- Bank statements
- Kiwisaver statements
- Investments
- Valuations
- Credit card statements
- Other assets and liabilities

Negotiation

- 50/50
- Exceptions
- Agreement
- Formalities
- Finance
- Settlement
- Future claims

Note: these are examples of disclosure. Contact your legal representative for clarification

Exceptions to 50/50



Examples:

- Homesteads
 - Extraordinary circumstances
 - Short duration relationships
 - Economic disparity
 - Two possible family homes
 - Sustenance of separate property
 - Diminishing separate property
 - Misconduct
 - Post-separation contributions
 - Post-separation dissipation
 - Trust assets
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Court

If two parties who have separated cannot agree on providing information or dividing their assets they will need to go to Court

Discovery

- Provision of information
- What if they refuse
- Process
- Court Orders

Division

- Application and affidavits
- Judicial Conferences
- Settlement Conference
- Hearings
- Delays

Immediate Relief

- Spousal Maintenance
- Interim distribution
- Order for Sale



Estates

- Wills
 - Option election
 - Agreements binding on Executors
 - Executors can enter into an agreement
 - Family Protection claims
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Thank You

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