

Pre-nuptial agreements - the jury is still out

As a principle, pre-nuptial agreements are said not to be binding on English courts. However, in view of a recent case, legal opinion is now somewhat divided.

The case concerned a Mr and Mrs Crossley. He was a wealthy property developer; she a serial divorcee. With a bride to be who had amassed an £18 million fortune and three ex husbands, it was no wonder that Mr Crossley signed up his intended to a pre-nup. The deal was that if the union went sour she could not get her hands on his own fortune of £42 million.

14 months later the writing was on the wall. Mr Crossley walked away with his fortune in tact. Mrs Crossley cried foul. The pre-nup should be disregarded, she claimed. Mr Crossley had failed to disclose all of his assets at the time of the marriage. She now wanted a slice of his fortune. The Court of Appeal thought otherwise. Although in relation to a preliminary issue and not the claim itself, the Court of Appeal indicated that should the claim be put before the court, the right decision would be to uphold the pre-nuptial agreement.

Disappointingly for the legal profession, Mrs Crossley dropped her claim for a slice of her husband's wealth hours before the actual hearing so we will never know exactly what the court was minded to do about the pre-nup. The general consensus, however, is that it may well have stood up and been considered a legally binding document.

The recent Mills v McCartney case has highlighted how a pre-nuptial agreement may well have saved the former Beatle a considerable amount of money. Romantically, and no doubt with regret, Sir Paul chose not to suggest the idea to his intended.

More and more couples are now choosing to enter into pre-nuptial agreements particularly where a large fortune has been amassed by one party before the marriage. With the divorce rates for the over 60's soaring it makes clear sense to sign up to a pre-nup just in case the marriage does not go quite to plan. Perhaps Sir Paul should have taken a leaf out of Mr Crossley's book after all.

For more information, please contact:

Anna Taylor	0121 222 2491
Email:	anna.taylor@elselaw.co.uk
Michael Vale	0121 222 2602
Email:	Michael.vale@elselaw.co.uk
Website:	www.elselaw.co.uk