

Frequently asked questions - property



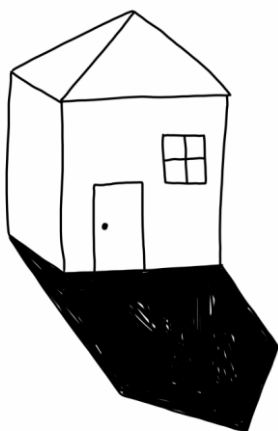
FAMILY VIOLENCE LAW HELP

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What property am I entitled to after we separate?

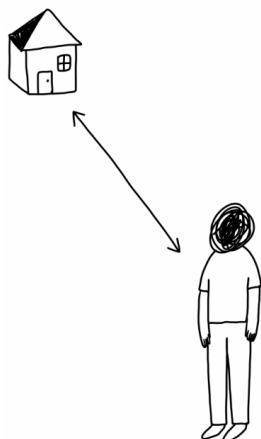
There is no simple formula to work out who gets what when a relationship ends. Many different things are taken into account and it depends on your circumstances.



Will I lose my rights if I leave the house?

No. But, if you leave and the house is in your ex-partner's name only, get legal advice.

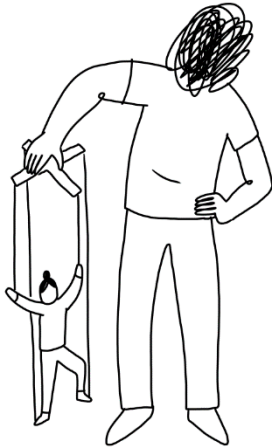
You may need to take steps to protect your interests. For example - to stop your ex-partner from selling the house without your agreement or increasing the mortgage against the house.



Can I make my ex-partner leave the house?

If you feel unsafe in your home and want the other person to leave, get legal advice.

Sometimes a Domestic Violence Order or an injunction made by the Family Courts can make one person leave the home.



Is domestic and family violence considered in a property settlement?

Domestic and family violence may be relevant in a property settlement. As every case is different, it's important to get legal advice.

It is important to tell your lawyer if you have experienced domestic and family violence as it may change the legal advice they give you, and it allows them to run your case in a safe way.

Domestic and family violence is also relevant if you need orders for your protection.



Does it make a difference if we are married or were in a de facto relationship?

No. If you were married or in a de facto relationship (including same-sex couples) the court will look at the same factors when it decides how to divide your property after you separate.

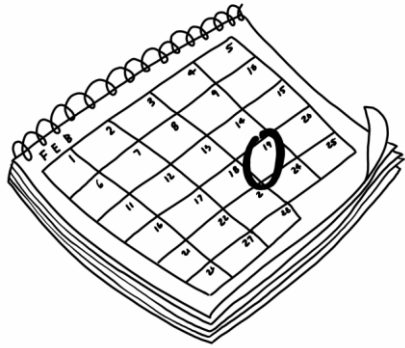
The main difference is the time-limit to start a case for a property settlement or spousal or de facto maintenance.



Do I have to get divorced to do a property settlement?

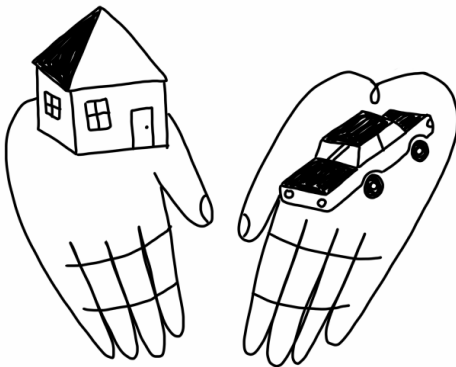
No. You can start negotiations about how to divide your property as soon as you separate.

How long do I have to sort out property or de facto or spousal maintenance?



If you were married—you have 12 months from the date you got divorced to start court action about property or spousal maintenance. This time-limit may not apply to you if you have a legal divorce from overseas. Get legal advice.

If you were in a de facto relationship—you have 2 years from the date you separated to start court action about property or de-facto maintenance.



Do we have to split the property 50:50?

No. The Family Courts look at a range of things when they decide how to divide property. It is not as simple as just dividing the property 50:50.

What happens to our debts?

Debts and loans can also be dealt with as part of a property settlement—even if they are only in one person's name. Get legal advice about your situation.

If you are having a hard time paying your debts, speak to a financial counsellor to discuss your options. Call the [National Debt Hotline](https://www.familyviolencelaw.gov.au/national-debt-hotline) on 1800 007 007.





Is property we buy or get after we separate included in a property settlement?

It may be if you haven't done a property settlement. It will depend on the circumstances, so get legal advice.

I'm worried my ex-partner will spend our money or give it away

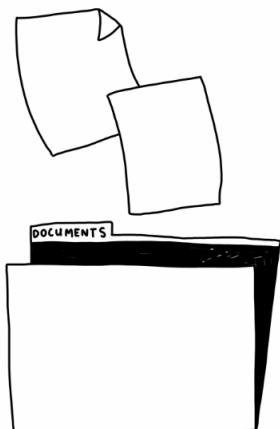
If you are worried that your ex-partner may sell or give away property or get a new loan without telling you, get legal advice.



You may be able to apply to court for urgent orders to stop your ex-partner selling property or accessing bank accounts until a final decision is made about your property.

I don't know what property my ex-partner has—they hid everything from me

In property cases there are rules about 'full and frank disclosure'. This means both you and your ex-partner must tell each other and the court the truth about your financial situation.



If your case is in court and you don't think your ex-partner is telling the truth, you or your lawyer can issue a subpoena (a written order requesting information).

Lying or not telling the court about your financial situation can affect the outcome of the case.

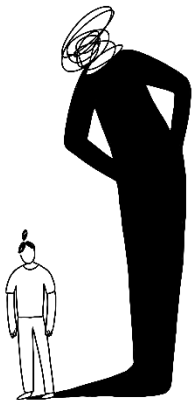


I have no income now I have left my ex-partner—what can I do?

Get legal advice to see if you can apply to the court for spousal or de facto maintenance.

You may also be able to get help with money from Centrelink, Child Support or a victim's compensation scheme.

If you are having a hard time with money, speak to a financial counsellor to discuss your options. Call the [National Debt Hotline](tel:1800007007) on 1800 007 007.



What can I do if my ex-partner pressured me to agree to a property settlement that wasn't fair?

Sometimes a property settlement can be set aside if a person was forced to agree to it against their will. You should get legal advice about your situation.