

## Shock in store if bankruptcy strikes former spouse

A recent case in the Chancery Division could alarm and upset husbands and wives if their ex later goes bankrupt.

A Judge has decided that any property transferred under a settlement and matrimonial claims, whether by agreement or even after a contested Court hearing, can be set aside on an application by the representative of the husband's creditors if he goes bankrupt.

In certain circumstances this application can attack agreements going back 5 years before the start of the bankruptcy proceedings.

The Judge's main argument was that someone who received property in such circumstances was not actually giving up anything which could be valued in money or money's worth, partly for technical legal reasons, and partly because some of the rights that can be claimed on divorce are difficult to value in monetary terms.

The Court did leave open the possibility that if specific items of property were passing both ways the overall settlement, or Order, might be saved, but this is far from certain.

Whilst Insolvency Practitioners will be pleased that there is another source of funds potentially to pay a bankrupt's creditors, such applications may come as an unpleasant surprise for ex- wives or husband's and, indeed, their dependent children.

As ever, correct legal advice at the time is very important, but anyone finding themselves with this potential problem will need advice on what can be done to try and salvage the best outcome from the situation.



**Mike Spencer**

20 Regent Street,  
Nottingham,  
NG1 5BQ  
Tel: 0115 9 100 200  
Email: [enquiries@actons.co.uk](mailto:enquiries@actons.co.uk)  
Website: [www.actons.co.uk](http://www.actons.co.uk)