



The House of Lords have spoken

On 24 May 2006 the House of Lords delivered judgement in the much awaited cases of Miller and MacFarlane.

There has been much Press speculation and hype regarding the cases, both before and since judgement, particularly in the light of the separation and presumed divorce of Sir Paul McCartney.

This is the first family case to reach the highest Court in the land since 2001 and continues the trend that only the very rich can afford to appeal cases that far.

On the face of it the cases were good for the wives. Mrs Miller kept her five million pounds; although the basis on which the lower Courts said she was entitled to it was not accepted by the House of Lords. In particular, behaviour is still to be ignored, unless it is very serious.

Mrs MacFarlane got an Order for maintenance of a quarter of a million pounds for life, or until remarriage, instead of an Order for only 5 years which she would have had to apply to extend, but nowhere near an equal share in her husband's future earnings.

As usual the judgements have to be read very carefully to draw out principles to apply to all cases.

Particularly in short marriages there is likely to be much more emphasis on where assets came from, and when they were acquired, so far as capital division is concerned.

As far as maintenance is concerned, a formula is being suggested of needs plus compensation, where the wife has given up a career.

As ever, in family cases, there are no simple answers. Judges retain their discretion, and advice has to be based on a careful and full analysis of the facts to which are applied the statutory criteria Case Law, and Opinion based on experience.

For further information, please contact Mike Spencer on 0115 9 100 200 or email enquiries@actons.co.uk.

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