

McCartney case may affect divorce deals

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Published: March 28 2008 16:46 | Last updated: March 28 2008 16:46

The divorce case between Heather Mills and Sir Paul McCartney made for lively reading. It also provided a new insight into how the High Court might view short marriages that involve considerable assets.

Mills received less than a fifth of the £125m she was claiming. A significant factor in the judge's decision was the duration of the marriage. As the couple did not live together before marriage the court ruled their relationship was only "true and settled" from their wedding day in June 2002. On this basis it lasted less than four years.

This was crucial in determining the size of Mills' payout which, although considerable, represented a small slice of McCartney's £400m fortune. Mills argued she should be compensated for giving up work during the marriage. However, the court decided that her income had improved during the marriage and that McCartney had encouraged Mills' career and her charitable activities.

As virtually all McCartney's assets had been derived before the marriage began, the court did not acknowledge the principle of sharing, whereby each spouse's contribution to the marriage is usually recognised by an equal split of assets. McCartney had achieved and would continue to achieve his success because of his contribution through The Beatles.

Mills' personal needs were also a crucial factor. A court will assess spouses' needs before it decides how the assets should be split. In this case the judge said Mills could not expect the same standard of living after her separation and he reflected this in the award made.

Mills' lump sum was £24.3m. This included £14m to be invested to achieve an income of £600,000 a year, retained assets worth £7.8m and £2.5m to purchase a London home. Mills' award was reduced by £500,000 because of the amount she had overspent on her lifestyle since separation.

The decision was seen by some as a swing back to a more traditional approach when wives of the very wealthy could expect to receive enough to meet reasonable requirements, but nowhere near half the assets.

The principle of equality intends to prevent discrimination in couples where one spouse is the breadwinner and the other the homemaker and childcarer. Splitting assets equally is now fairly common, but is more likely in long marriages.

The emphasis on needs in the Mills/McCartney case suggests that in future, particularly when the wealth is generated before the marriage by the other spouse, claimants will be expected to moderate their claims.

The wide discretion of the court to award huge settlements in recent years has increased the demand for pre-nuptial agreements, which enable a couple to decide in advance how to arrange their finances should the relationship end.

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