

We can work it out



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THE MILLS V MCCARTNEY CASE WAS ONE OF THE MOST COSTLY AND ACRIMONIOUS COURT BATTLES IN BRITISH HISTORY. AND, BASED ON CURRENT DIVORCE RATES, JUST UNDER HALF OF ALL MARRIAGES WILL BREAK DOWN. SO HOW CAN COUPLES AVOID ALL THE NASTINESS, EXPENSE AND, OFTEN, PUBLIC HUMILIATION THAT GOES WITH IT? SELMA DAY ASKS THREE TOP MAYFAIR LAWYERS TO GIVE THEIR TAKE ON THE SITUATION

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ON MILLS V MCCARTNEY

This was a big money case. The assets were large. Ultimately Ms Mills did not have legal representation. She may therefore have not been aware of how a judge would consider certain issues. A solicitor would have advised her at each stage what a court would have been likely to have awarded her. It was a short marriage, but there was a child involved. The court's primary concern is for the welfare of the child.

SETTLING OUT OF COURT

A divorce settlement can be reached by consent after there has been full financial disclosure and a solicitor can draw up a Consent Order, which a judge has to approve. Alternatively, if you cannot reach agreement, it goes through the court system and a judge will ultimately decide for you.

PROTECTING ASSETS

Get as much information as you can on your spouse's assets before they know you are seeing a lawyer or even considering a divorce. Prepare.

There may be other things that need to be done quickly. For example, you may need a Land Registry Charge on the matrimonial home to prevent it being sold under you if the house is registered in your spouse's sole name.

Pre-nuptial agreements if compiled properly can help and are something the court can take into account. However, ultimately you cannot prevent a court making its own decision.

With the super rich there are issues, for example, tracing assets, which can be hidden. Your solicitor may need to engage a forensic accountant. There may be a business, which needs to be valued, there may be many properties or there may be tax issues.

PRACTICAL ADVICE

If there is no chance of reconciliation, see a solicitor who specialises in family law early on for some initial guidance and advice regarding your entitlement. Preparation and going to your solicitor's office with the right documentation help to keep your costs down.

Divorce can be very emotional, particularly if there are children involved, so see a family law solicitor who is a member of Resolution, which has a charter which their members subscribe to. This should avoid the unpleasantness.

MARITAL LAW IN THE UK

If you are an international family there may be a choice of country where a Divorce Petition can be issued. It is important to get advice quickly on where the best forum is. England is known to be generous for wives compared to many other countries.

If the English court does have the jurisdiction, many wives in particular will want to have the divorce heard in England. Wealthy husbands feel the reverse. You should see a family law solicitor for advice as to whether the English court has jurisdiction.