

Property 101

Problem questions

Legal Aid NSW Family Law and Care and Protection Conference
September 2011

Question 1

- Angela comes to see you for advice in relation to a property settlement she needs to resolve with her husband Brad. Angela and Brad have been married for 13 years and recently separated.
- She tells you that Brad had approximately \$10,000 in savings when they met. For the first two years of their marriage, they lived with Sally's parents rent free. They then bought a home at Killara for \$400,000. They had \$40,000 in savings. They took out a mortgage with Eastpak Bank to cover the balance. Brad was working for Eastpak at the time and obtained a discounted interest rate on the mortgage.
- Angela is a beneficiary of a discretionary trust set up by her grandfather 50 years ago. She says she hasn't received a distribution from the trust for many years.
- Brad is now a bank manager with Eastpak earning \$150,000 a year. Brad has Eastpak shares worth \$50,000. He works long hours and currently sees the children one night a week and on alternate weekends.
- Angela and Brad also have a share portfolio and some savings.
- Angela's father died six months ago. His estate has not yet been finalised. She expects to receive \$60,000.
- Angela and Brad have two children aged eight and four. Angela stopped working to care for the children. She recently returned to work on a part-time basis. She earns \$30,000 a year.
- Angela would like to remain in the house at Killara.
- Advise Angela in relation to her property entitlements.

Question 2

- Mark comes to see you for advice. He has \$70,000 in superannuation. His wife Amanda has superannuation as well, but he does not know how much she has or what type of superannuation it is.
- Mark also tells you that he and Amanda own a personal training business. They both work in the business. Mark has just discovered that all the access codes on the business accounts have been changed. He is worried that Amanda will move the funds in the business bank accounts. He believes there is about \$200,000 in these accounts.
- Amanda has an investment property that she owns with her brother. Mark instructs you to carry out a title search. You discover that the property is now in Amanda's brother's name. The transfer shows that it was sold for \$50,000. Mark instructs you that Amanda told him she and her brother bought the property three years ago for \$200,000.

- Ben seeks your advice in relation to property issues. He and his partner John were living together in a de facto relationship for 14 years. They separated in April 2009. They live in NSW.
- When Ben and John moved in together, they moved into a property in Paddington which Ben owned. Ben estimates that the Paddington home was worth about \$400,000. The Paddington property was unencumbered. John generally bought the groceries. Ben paid for the rates and household insurance.
- When they met, John was studying architecture in his final year at university. Ben was working as a police officer.
- About 3 years ago they decided to carry out renovations on the Paddington property. Ben used \$100,000 from his compensation payment to pay for the renovations. John designed the plans and used his contacts to find a builder. John sourced a lot of materials and was able to get some materials at wholesale rather than retail price. John did not contribute any money to the renovations. John painted the house after the renovations were done. Ben supervised a lot of the building work as he was at home.
- Ben left the police service on medical grounds. He receives a police pension which is $\frac{3}{4}$ of his police wage. He is undertaking a part-time business studies course at TAFE.
- Since they separated Ben has remained in the Paddington home. He tells you he would like to keep the house. He thinks the house is worth about \$1,000,000.
- John has been working in an architect's firm since he graduated from university. He studied a master's degree whilst working and was promoted to partner 3 years ago. He became an equity partner last year. He has a 25% interest in the firm. Ben does not know how much the partnership is worth but John has always talked about how well it is doing.