

5 Steps of Property Settlement

1. PREPARE

A determination must first be made as to whether or not it is “just and equitable” to make adjustments to the parties’ property interests. Usually, where parties have separated voluntarily and will no longer enjoy common use of their assets, it will be “just and equitable” for an adjustment to occur.

1.

2. VALUE

All property must be taken into account, whether individually or jointly held and whether acquired before or during the relationship, or after the separation. “Property” includes assets, liabilities, superannuation entitlements and financial resources.

2.

3.

3. YOUR INPUT

Consider the financial and non-financial contributions (both direct and indirect) made by and/or on behalf of each spouse to the acquisition, conservation or improvement of property, including contributions as homemaker or parent.

4.

4. FUTURE NEEDS

Assess the “future needs” of each spouse including age, health, income earning capacity, care for children etc.

5.

5. THE OUTCOME

Consider the practical effect of the proposed property settlement, and whether it is just and equitable.

The 5 Step Process applies to all married couples and to all de-facto couples.

*It is important to seek specific legal advice regarding what constitutes a de-facto relationship.

FORMALISING YOUR AGREEMENT:

A property settlement agreement must be documented by either:

- A Consent Order through Court *OR*
- A Financial Agreement pursuant to the Family Law Act.

TIME LIMITS:

- **Matrimonial property settlements** – 12 months from the date of a Divorce Order
- **De-facto property settlements** – 2 years from the date of separation

