

## **Pre-Acquired Pensions – Case Study – Leslie Samuels QC – June 2019**

John and Jane are both 44.

They met 12 years ago on an airplane. John was an investment manager. Jane was an airline steward. The strong hint in the papers is that the relationship was consummated in the first class wash room (although no one has directly addressed that issue).

They married 3 weeks later.

John had accumulated significant capital. He had worked exceptionally hard and had been both successful and lucky. By the time he married Jane he owned a flat in Central London worth £1m and investments worth another £1m. He had also accumulated significant pension provision.

Jane had nothing. She had been born in Canada and all her family lived there.

Then the financial crash happened, and John lost his job. John and Jane did not care. They were in love. They travelled the world, swimming with the dolphins, staying in the best hotels, eating in the finest restaurants, etc.

Billy was born, closely followed by Milly. They are now 7 and 5. With the birth of the children, the parties returned to London and John looked for employment. They lived in his flat. He was able to obtain a job, but his income could not match that achieved in the boom years.

John and Jane continued to spend prolifically, the best of everything, well beyond what was affordable on John's income. When they had exhausted John's savings they borrowed, at first commercially and then from family. The relationship deteriorated and so rather than spend together they spent separately.

Eventually crisis hit and John realised he had to increase his income. He obtained a job in Dubai so that his income could be received tax free. The enforced physical separation suited both parties. Inevitably, the marriage ended and the Wife petitioned for divorce.

However, their spending continued unabated. Now they had a new shared interest: litigation. They spent prolifically with good London firms. They made wild and unsubstantiated allegations against each other and ran points that were untenable. There were Children Act proceedings as well as a financial remedy application.

By the time the matter came to trial (and the Judge had waded through all erudite submissions of top London counsel), the stark position was as follows:

- The parties had debts of £250,000 in total;
- There was a net equity in John's flat of £750,000 (all pre-marriage accrual);
- The Husband's pension was worth £1m (again, all pre-marriage accrual);
- The Husband's income was £150,000
- The Wife's income was £0.

So far as the children are concerned:

- They are both at a top fee paying prep school. The parents agree they should remain there.
- Milly has mild global developmental delay. The delay is physical as well as educational. The parents have thrown every therapeutic resource towards her needs and she has thrived. She is likely to achieve independence in due course but the hard work (and financial outlay) will continue.
- Jane parents them largely alone. John has decided to remain in Dubai as he cannot achieve a comparable net income in Dubai.
- Jane's earning capacity is very limited. She has a first-class degree... in homeopathy.