

Title: Matrimonial property

Question:

I have lived in Cyprus for 11 years (eight years I was married to a Cypriot and three I was divorced), I haven't got a Cypriot citizenship yet. We have two children (they are living with me). We have bought a piece of land near the sea since three years after the marriage (and a year after the wedding in the church). The plot was purchased with money that my husband had saved for years before marriage. He has got all evidence, papers from the bank and etc. During seven years of marriage I hadn't worked officially, I was raising children, caring for my husband's sick father. Can the plot be considered as a "joint property", given that it was bought with my husband's money, saved before marriage? If so, what part I am entitled to claim? Does the number of children take into account?

Response:

In case of a divorce, the matrimonial property settlements are governed by the Law 232/1991. Your citizenship status is not relevant to the regulation of the property disputes between you and your ex-husband at a court level. Provided that your marriage is recognized by the State, you will be able to have a claim within the provisions of the Law. The marriage does not amend the asset independence of the spouses. This means that the property and/or assets, movable or immovable, which was either acquired before or after the marriage, remains the personal asset of each spouse. Of course, the assets of each spouse are calculated for the mutual obligation regarding children maintenance or spouse support. However, this asset independence does not eliminate the right to the ownership of a joint property which in the case of a divorce will be regulated according to article 14 of the Law. According to this article, you will have to satisfy the three following requirements: 1) Divorce or Separation; 2) increase to the property of one of the spouse; 3) your contribution to the increase of the other spouse's property. For the calculation of the "contribution" the court considers any kind of contribution and it includes the care of the family house and of the members of the family. This contribution and the rate of your contribution is the provision for the creation of your right to bring your claim. In any case, you will be able to claim the 1/3 of the implicit rate regarding the family house or if it is proved that you have contributed up to the 1/2 of the increase then you may claim the 1/2 of the family house. The number of the children is not relevant to the settlement of the property disputes between the spouses. In addition, for the children, the relevant Law is article 33(1) of the Law 216/90 which refers to the maintenance of minor children and provides that both of the parents are jointly responsible for the maintenance of their minor children. This obligation remains irrespective that a parent may have contacts with his minor child or not. In any case, it is advisable that you visit a

Lawyer who will read the Court Orders that already have been issued and will consult you accordingly.