

Separation & Divorce

SEPARATION AND DIVORCE IN A RECESSIONARY ECONOMY

International research indicates that couples who experience any sudden significant and unexpected change in income — whether positive or negative — are at risk of breaking up.

However international research and experience show an *"inevitable link"* between a downturn in the economy and a rise in the number of family break-ups. As the lyrics from Billy Joel's song "Scenes from an Italian Restaurant" say:

*"They started to fight
when the money got tight,
and they just didn't count on the tears ..."*

Divorce is now Ireland's fastest growing marital status. The number of divorced people has increased by 70pc from 35,100 in 2002, to 59,000 in 2006 and unfortunately there is no sign of this trend reversing itself. Breaking up can be very hard to do in a falling property market and global credit crunch. Financial experts are not uniform in their predictions of how long the current cycle will last. Properties are hard to sell, and finance is hard to source and to repay.

In middle income situations this makes the dilemma faced by a separating couple very serious. Lenders are reluctant to allow the financially stronger party out of a joint mortgage so that the property can be transferred into the name of a dependant spouse, subject to them taking on the repayment of the existing mortgage. The fall in house prices can mean that the family home has to remain in joint names to meet the housing needs of the financially dependant parent and children. The other partner may not be able to get on the first rung of the property market in their own right. The cost of the weekly shopping basket alone may encourage some couples to stay together but live separate lives under the one roof.

In "big money" situations the dilemma tends to be more one of 'scale' and timing. Problems of gearing, currency fluctuations, and share and pension values all create their own dilemmas in the current economic world recession. There is little doubt that expectations can be more realistic, and settlements are lighter than they might be in a booming economy. Courts are not unaware of the current economic realities and court outcomes on separation are adjusting to meet the challenges faced by the family to ensure overall "fairness".

Marital difficulties can have a profound impact on a family for many years and these difficulties need not always result in separation or divorce. Marriage counselling is far cheaper and, where this is a viable alternative, many couples may see the sense in exploring it.

危机 The Chinese symbols for 'crisis' imply, there is both danger and opportunity in a bear market. The "black swan theory" developed by the American financial analyst, Nicholas Taleb noted that before Australia was discovered people thought that all swans were white, however after the eighteenth century it became clear that this was not always so.

The future remains uncertain. Couples facing the hard reality of relationship breakdown frequently have no control over that fact and never have control of the economic climate. Marital breakdown no longer features as a 'low probability high impact' black swan event; it is an everyday risk in modern Ireland. Nurturing family life is sound risk management.

Where family disruption is inevitable however it makes sense to deal with separation and divorce in a way which preserves relationships and family wealth as much as possible. In a credit crisis getting into the "reality zone" sooner rather than later is essential and more achievable and more couples than ever are choosing to engage in one or another form of *Alternative Dispute Resolution* rather than institute

legal proceedings and rely on the 'dice and slice' of the family law courts. Negotiating a fair and workable solution to forstall or conclude matrimonial litigation makes sense. By negotiation, the parties armed with shrewd legal and taxation advice can retain far more control over the options and outcomes they chose in restructuring their family life.

**For Advice on Mediation options,
Collaborative Law, Traditional Neogotiation
and Separation and Divorce Litigation
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