



## Can my patrimony be shared unequally ?

You and your partner get a divorce. It is your belief that you contributed more to the needs of the family than your ex-partner. Can a judge order that the family patrimony be shared unequally? If so, under what circumstances?

### THE FACTS

The couple was married in June 1991 and had 5 children together. At the time of the ruling, the children were between 5 and 11 years of age. The couple had ceased living together in March 2002. The parties agree that the value of the patrimony to be shared, which includes the house, is approximately \$18,807. As part of the divorce proceedings, the wife asks for an unequal partition of the family patrimony. She maintains that from the beginning of the marriage, she alone, tended to the couple's needs. The husband was incapable of maintaining employment, and was fired because of laziness. The wife also claims that the husband never looked after the children. The husband maintains that he had several jobs during the marriage and as a result, could not take care of the children to the same extent that his wife did. He asks that the family patrimony be shared equally. Since the separation, the husband has not worked and has been living with his parents. He expects to go back to school. The wife lives in the family home with the children and has two jobs. Further, she has been making the mortgage payments since the couple ceased living together.

### THE ISSUE IN DISPUTE

Can the wife request an unequal sharing of the family patrimony so that she can maintain sole ownership of the house, and can she do so without compensating the husband?

### THE JUDGMENT

The judge orders the unequal sharing of

the family patrimony and assigns the house to the woman.

### THE REASONS

The Court concludes that equal partition of the family patrimony will constitute an injustice considering the behavior of the husband and the exceptional contribution of the wife. A partner's lack of interest or chronic laziness could be grounds for the unequal sharing of the family patrimony. A similar ruling could be made in recognition of one partner's exceptional contribution to the marriage. In such a case, the contribution to both family finances and family life would have to exceed what is normally expected of a partner. The husband's mean-spirited and selfish attitude as well as his intransigence during the split, and the woman's exceptional contribution to daily tasks during the marriage and her extraordinary efforts to maintain the family property after the separation are such that it would be unjust to assign an equal partition of the family patrimony. The judge therefore declares the woman to be the sole owner of the family home.

#### References

*M.G. v. A.M.*, April 20, 2005, 450-12-021171-022, Saint-François, (J.E. 2005-889; [www.jugements.qc.ca](http://www.jugements.qc.ca))

*Civil Code of Québec, S.Q.*, 1991, c. 64, art. 422.

The judgement discussed in this article was rendered based on the evidence submitted to the court. Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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