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Women to receive less in divorce settlements

Michael Herman and Dominic Kennedy

The balance of power in divorces tilted away from wives yesterday as a judge warned that ex-husbands could not be expected to provide women with a share of future earnings for life.

England's reputation as the most female-friendly place for divorce was dented when a wife who did not have a job was refused £1.5 million compensation for loss of her banker husband's future pay.

Mr Justice Charles said in the High Court that anyone given an adequate lump sum could not expect a share of future earnings.

The case before him concerned Mr and Mrs H who met at St John's College, Oxford, in 1982 and married three years later. She gave up her job as a teacher to follow him to a posting with a bank in Tokyo, and took charge of caring for their four children, now aged 9 to 19. Mr H formed a new relationship in 2004 and left their £2.7 million marital home, which the wife will keep, after 20 years of marriage.

Mrs H, 46, has been awarded £13 million in cash and assets but told she could have nothing more.

The ruling will dispel concerns that ex-wives could get a share of former husbands' future pay rises and bonuses, especially if their careers are still on the way up. Mr H is 44 and is deemed to have considerable future earning potential.

The judge was able to award a "clean-break" sum because the couple had built up enough assets during marriage to meet the wife's future needs.

"This is not a case in which the wife gave up a career that was likely to provide substantial income or monetary reward," the judge said. "She was a teacher."

Citing the husband's burdens as long hours, travel and hard work, he said that the wife's role as home maker and primary care-giver enabled him to concentrate on his work, giving them both "considerable economic benefits".

The judge said: "The bringing up of four children and the creation of a lovely home as the wife has done involved much hard work, love, time and devotion but it results in numerous joys and much satisfaction and pleasure."

The judge believed that the wife's economic contribution to her husband's future earning potential was small. "His high level of income is primarily based on his talents, hard work and good fortune in pursuing his career," he said.

The judgment is the first since two House of Lords decisions struck fear into the hearts of married high earners last year. Kenneth McFarlane, an accountant, had been ordered to pay his former wife Julia £250,000 a year for life when their 16-year marriage broke up. The Lords decided they had failed to accumulate enough wealth for a clean break.

The wife of Alan Miller, a hedge fund manager, was awarded £5 million of his £20 million fortune after only three years of marriage.

Divorce specialists began warning rich people to avoid marriage. Caroline Garnham, private client partner at Lawrence Graham, said: "Savvy spouses have been trying to manipulate their husbands to come and live in the UK. It's the best place on earth to get a divorce." Even yesterday's decision only tilted the position of wives from "extreme" to "extremely good", she said.

Fears that English judges favour wives were cited by some commentators as the reason that Roman Abramovich ended his marriage in Russia.

Emma Hatley, family law expert at Withers, said: "I believe we may have seen the high watermark for wives."

The key principle enshrined by the judgment is that a wife is entitled to be kept in the manner to which she has become accustomed, but no more.

Naim Qureshi, partner at solicitors Child and Child, said that high earners would welcome this decision.

But Ranjit Kaur, director of the Rights of Women advice group, said: "This woman would be in great difficulty to have a career as financially rewarding as her husband's. She sacrificed to invest in the family helping him to achieve the position he has achieved."

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