**Can A Mistress/Manstress Have Rights To Your Property?**



In the context of recent news regarding a certain politician, we thought it would be an interesting topic to touch on.

The short answer is YES.

**WHAT DOES THE LAW SAY?**

While bigamy (being married to more than one person) is a criminal offence, it is not an offence to be married to someone and have one or multiple simultaneous [de facto relationships](https://martenslegal.com.au/services/family-law/#defacto). This is because since March 2009 Australian law has recognised both marriages and de facto relationships.

Whether you are in a de facto relationship will depend on a number of circumstances, and each relationship will have its own set of factual circumstances. You should seek legal advice if you are unsure about your current situation.

**ARE THERE ANY REAL-LIFE CASES?**

**Case 1 –**

A recent case Sha v Cham highlighted this issue where a Court found that the husband was in a de facto relationship with his sex worker, notwithstanding the fact that he was still with his wife.

**Facts-**

* In late 2011 the husband, Mr Sha met Miss Cham at a massage parlour where she worked.
* They began a sexual relationship in early 2012, she stopped working at his request and they had a child together in mid-2013.
* Mr Sha paid for Miss Cham’s mortgage and other expenses.
* They also entered into a [financial agreement](https://martenslegal.com.au/services/family-law/#financial) in August 2012, which provided significant financial benefits for her.
* In October 2012 Mr Sha and his wife separated.
* In November 2013 Miss Cham left Mr Sha and applied to Court to seek the enforcement of the financial agreement.
* Ultimately, Mr Sha was ordered to pay Miss Cham $326,250.

**Case 2 –**

A contrasting case is *Jonah & White* where a Court found that no de facto relationship existed, notwithstanding the fact that the parties has been in a relationship for 17 years.

**Facts –**

* Mr White and Ms Jonah had been in a relationship for 17 years.
* Mr White was married throughout the period of the parties’ relationship and living with his wife and children.
* The parties kept their relationship secret, maintaining separate homes and households.
* Ms Jonah had supported the Ms Jonah financially by way of a $24,000 payment to assist her with the purchase of a property.
* From 1999 until early 2010, Mr White paid Ms Jonah a monthly financial sum.
* The parties saw each other for around 2 days every second or third week and they travelled overseas together on one occasion for approximately two and a half weeks.

The Court found that no de facto relationship existed because:

* The parties had separate households;
* In terms of the public aspect of their relationship it was kept secret and they did not socialise as a couple and rarely met each other’s friends, family and colleagues;
* Mr White stressed boundaries specifically saying if he had to “make a choice”, he would “choose” his wife;
* The parties had no joint finances; and
* Mr White had extremely limited involvement in Ms Jonah’s life outside their relationship.

**WHAT IS THE RISK?**

There is a real risk in circumstances where a person has an affair with someone other than their current spouse, during which they have supplied that person with financial support or had a child with them, that the relationship with the person may be considered by the Court to be a de facto relationship.

This would mean that the mistress/manstress could apply to Court for a [property settlement](https://martenslegal.com.au/services/family-law/#property-settlement) and/or [spousal maintenance](https://martenslegal.com.au/services/family-law/#spousal).

### ****WOULD YOU LIKE FURTHER INFORMATION?****

If you would like to further information about de facto relationships, please [contact us](https://martenslegal.com.au/contact/) or [book an appointment](https://martenslegal.com.au/book-an-appointment/)online.

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