


[Welcome: Kimberley](#) | [My Account](#) | [My Favourites](#) | [Log Out](#)

search over 11568 articles since 1997

[Search](#)[advanced search »](#)
[Home](#) [World](#) [People](#) [Companies](#) [Structures & Services](#) [Tax & Regulation](#) [Management](#) [Other Topics](#) [Contact Us](#)
[SEE ALL TODAY'S STORIES »](#)

Supreme Court overturns Court of Appeal's ruling on spousal maintenance case - Industry reacts

19/07/2018 NEW News Team
 [Back](#) [Email](#) [Print](#) [Feedback](#) [Add to Favourites](#)

The Supreme Court has given its judgment in a long running spousal maintenance case (*Mills v Mills*) over whether an ex-wife should be granted an increase in her maintenance payments from her ex-husband. The Supreme Court which overturned the Court of Appeal's decision ruled in favour of the husband and as a result did not increase the maintenance payments.

The appellant and respondent are former husband and wife who divorced in 2002 after a 16-year marriage. The financial issues in the divorce were resolved by way of a consent order. Under the terms of that order the wife received £230,000 in settlement of her capital claims against the husband, and it was also agreed that the husband would make periodical payments to her at an annual rate of £13,200.

The husband had applied for the discharge or downwards variation of the order for periodical payments, whereas the wife had applied for the order for periodical payments to be varied upwards.

In determining the applications the judge noted that there was a shortfall of £4,092 per annum between the wife's current needs and, when coupled with her own earnings, the existing level of the periodical payments. However, he also held that, although the wife's actions had not been profligate, she had not managed her finances wisely and her current financial needs, in particular her need to pay rent, had been increased by the choices which she had made.

Consequently, the judge considered that it would be unfair to the husband if he had to make a full contribution to the wife's rental costs. The judge therefore declined to vary the order for periodical payments either upwards or downwards.

The wife appealed against this decision to the Court of Appeal, and was successful. The Court of Appeal considered that the judge had not given sufficient reasons why all of the wife's basic needs should not be met by the periodical payments from the husband, and increased the level of periodical payments to cover her shortfall to £17,292. The husband then appealed against this decision to the Supreme Court and won his case on which industry experts have commented.

Ros Bever, national head of family law at Irwin Mitchell Private Wealth said: "A husband should not be responsible for meeting the needs of his wife by way of ongoing maintenance where those needs were not connected to the relationship, but were in fact the result of the wife's financial mismanagement. This judgment provides welcome clarity that a husband will not be responsible for a wife's needs relating to provision of housing where she has mismanaged her capital settlement which was intended to meet those needs."

"Campaigners against what they perceive to be the 'meal ticket for life' of indefinite maintenance orders will claim this as a victory. While this is a very narrow point - the Supreme Court has been at pains to stress that this is not a commentary on the principles behind maintenance orders generally - it does fit with the general trend in this area. It is clear the English courts are increasingly looking to encourage spouses to have financial independence from one another."

Similarly Joanna Pratt, partner and head of the family team at Thomson Snell and Passmore, said: "By allowing the appeal, the Supreme Court is holding the former wife to account for her "unwise decisions in relation to

[Text Size +](#)[Text Size -](#)[Free Trial »](#)[Subscribe »](#)[Press Release »](#)[Benefits »](#)[Events »](#)[Advertise with Us »](#)

THIS WEEK'S TOP STORIES

- ▶ UK law firm makes string of promotions
- ▶ 46% increase in UHNWs and HNWs relocating to the UK in the last year - Collyer Bristow
- ▶ US tax reform - The implications for HNWIs and families abroad, some unexpected consequences
- ▶ Senior leadership changes at Deloitte Jersey as senior partner retires
- ▶ Withers makes raft of partner promotions across its Asian, European and US offices



PAM (Private Asset Managers) and its sister website PAMonline combine to provide "...the best guide available to the leading firms in private client fund management" (FINANCIAL TIMES). PAM compares managers on a level playing field by key data such as fees and charges, minimum investment thresholds and so on.



thewealthnet is designed to meet the information needs of those involved in the creation and preservation of private wealth.

her capital" and not allowing her to increase the financial support from her ex husband as a result of her own conduct. Mr Mills will no doubt feel that justice has been done, and having provided his former wife with a capital sum to house herself some sixteen years ago, the Supreme Court is not expecting him to effectively fully provide for her housing costs twice over. The decision does however leave Mrs Mills in a situation where whatever the reasons may be for her having lost all her capital, she has insufficient income to meet even her basic needs."

Stacey Nevin, associate in the family & divorce law team at Kingsley Napley, added: "Crucially, the Supreme Court's decision means that Mr Mills does not need to bear the consequences of her poor financial decisions and appears to shut the door on spouses coming back for housing claims in the future when they have already been factored into a capital award. Financially weaker parties will be relieved to see that the notion of maintenance for life has survived its latest test, albeit today's decision has not widened its scope."

Deborah Jeff, partner and head of family at Seddons, said: "This long awaited decision of the Supreme Court gives welcome clarity in this unusual area of family law. The quantum and duration of maintenance payments for spouses has changed drastically in the last few years. Maintenance awards are now made usually on the basis of needs alone. But Mr Mills is in the unfortunate situation where the new, additional income needs of his former wife have arisen following the conclusion of their financial affairs, after unwise investment of the capital made available to the wife on divorce to meet her housing needs."

Simon Blain, partner in the family team at law firm Penningtons Manches and a national committee member at Resolution, the national organisation for family lawyers said: "Once again, this case brings into sharp focus the financial impact of a myriad of factors (including health, financial investments, and job loss) that can and do often occur following divorce. These cases are always decided against the background of their particular facts but what is clear is that the risks and uncertainties involved in remaining financially inter-dependent post-divorce fall on both sides and mean that any crystal ball gazing at the point of the divorce itself can only take you so far."

Furthermore, Charmaine Hast, partner at Wedlake Bell LLP, said: "The Supreme Court's ruling today endorses the equitable principle that you cannot have two bites of the cherry in respect of a capital claim, despite having a maintenance claim still open. Mrs Mills has been prevented from continuing her reliance on her former husband which is only fair as she has not been his wife for the last 16 years. The effect of this judgment will be to send a message to those who have already received a divorce settlement that there will be no more capital after this even under the guise of the word "maintenance". In light of this judgment, perhaps the English courts will now no longer pander to those who make risky financial decisions post-divorce believing that they can always go back for more capital."



LINKEDIN



TWITTER

[SEE ALL TODAY'S STORIES »](#)
★★★★★ RATE THIS ARTICLE


Poor



Average



Good



Excellent

eprivateclient archives contain 11,562 articles dating back to 2003, making it a significant research source for professionals seeking focused information on the international private wealth structuring industry. To search for more articles, please click [here](#).