

Contemporary Issues on Matrimonial Property

Edited by:
Zuhairah Ariff Abd Ghadas
Norliah Ibrahim

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CHAPTER 4

‘MERSHER ORDER’ IN PROTECTING THE CHILDREN’S RIGHT NOT TO LOSE A ROOF OVER THEIR HEAD AFTER A DIVORCE: MALAYSIAN EXPERIENCE

Norliah Ibrahim

4.0 INTRODUCTION

For most families, the most important asset they possess is the house in which they live i.e the matrimonial home. It is undeniable fact that, matrimonial home typically, is a major asset, if not the only assets of the family. During the marriage, generally the parties are not interested to determine the ownership of the matrimonial home. The reason is plain. So long as they are living together and sharing the benefit together, it does not matter who does the saving and who does the paying, or who goes out to work and who looks after the house. However, upon divorce, both parties start to distinguish the ownership and try to get their share on the basis that they have contributed either directly or indirectly in its acquisition. Suddenly it becomes essential to identify what rights each spouse has in relation to the matrimonial home. Some divorces are concluded smoothly and amicably, but in other cases, both parties fight