

if you think property has been sold or hidden.

Can I appeal the Order?

- If you are not satisfied with the Order made by the Magistrate, using *Notice of Appeal* (FORM 26) you may Appeal to the Family High Court, within 28 days from the date of the Order.
- You will have to pay filing fees to the Family Court Registry.
- If you need help or advice visit the Legal Aid office nearest you.

(Footnotes)

¹ To do this properly, see the pamphlet on *Service*.

Legal Aid Commission

Head Office: Suva

Legal Aid Fiji Building
41 Loftus Street
Private Mail Bag
Government Buildings
Ph: 331 1195 Fax: 330 3023

Nausori

Level 1 Y.M.Haniff Arcade
Lot 10, Main Street
P.O.Box 3495
Ph: 347 0003 Fax: 347 0005

Lautoka

Level 1
Magistrates' Court Complex
Tavewa Avenue
Private Mail Bag
Ph: 665 0011 Fax: 665 1788

Labasa

Ground Floor
New Court Complex
Katonivere House
P.O.Box 1241
Ph: 881 5118 Fax: 881 7322

Ba

Magistrates' Court Complex
P.O.Box 433
Ph: 667 8000 Fax: 667 8426

Email: info@legalaid.org.fj

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PROPERTY SETTLEMENT

(What happens to what
you own after your
divorce)

What is Matrimonial Property?

- It is any property (land, house, FNPF, any other things) owned by a couple before, during or after marriage.
- You can apply any time for property settlement, before, during or after divorce. If you have been divorced you have to file for property within 2 years.

What am I entitled to in a property settlement?

You can claim a half share of all property. But if you think you should get more, you have to give reasons to the Court.

How do I apply for Property Settlement?

- Pick and fill an *Application for Final Orders* (FORM 9) and a *Financial Statement* (FORM 19) from a Family Court Registry nearest you.
- You MUST have the following documents to help your application for property settlement: -
 - (a) Certificate of Title/ Lease Documents from Lands Department/NLTB
 - (b) LTA records about your car
 - (c) pay slip (if employed)
 - (d) FNPF statement
 - (e) Bank statement
 - (f) Birth certificate of child(ren) if they are below the age of 18 under your care
 - (g) Payment of maintenance/receiving payment of maintenance
 - (h) Papers showing that your child(ren) is

- attending tertiary school
- (i) List of items (gifts) and inheritance
- (j) Shares and Insurance policy
- (k) Any other relevant papers that you think will help your application.
- Take all of these papers to a Legal Aid office nearest you and they will help you fill in the forms.
- Make 2 photocopies of each form you have filled and take these back to the Family Registry.
- You will have to pay filing fees to the Family Court Registry.
- If you cannot afford to pay filing fees you can visit Legal Aid office to make arrangements.
- The Family Court Registry staff will give you a date on your form, and you MUST come to Court on that date.
- You MUST give one copy to your spouse.¹ Whether you have given a copy of the form to your spouse or not you MUST still go to Court on the date given on the form.

What do I do if I have been given a Property Settlement application form?

- You MUST come to Court on the date written on the *Application for Final Orders* (FORM 9). If you do not agree with what is written on the forms then you must file a *Response to Final Orders* (FORM 10).
- You will have to pay filing fees to the Family Court Registry.
- If you cannot to pay the filing fees you can visit the Legal Aid office to make arrangements.
- You will then have to give a copy of the form to your spouse, whether you have given a

copy or not, you MUST still go to Court on the date given to you by the Family Court Registry.

What factors does the Court take into consideration when settling property issues?

- How long you have been married;
- How much time, money and effort you have put into the marriage;
- Your financial and non-financial contribution to all the things you bought after the marriage whether owned by you alone or together with your spouse or partner.
- If you have custody of the child(ren);
- Your age, income capacity, health and any other commitments you might have;
- If you have enough money to look after yourself in the future;
- Any maintenance payments you may be receiving;
- If you are staying on a native lease, then you cannot claim an interest on the lease.
- A reasonable way of life that you were used to during marriage.

What happens if my spouse has transferred the property to someone else? Or has hidden the property or sold it off?

If this happens, the Court can look into your spouse's financial history like tax returns, bank statements etc to see what property they had three years ago. So you need to tell your lawyer