

Pre-nuptial agreements – the long awaited Supreme Court decision in the case of Radmacher v Granatino

Clare Ellison of Hodge Halsall Solicitors comments on the decision in Radmacher v Granatino.

The judgment has now been delivered by the Supreme Court in the case of Radmacher v Granatino. It was held that pre-nuptial agreements can have “decisive or compelling weight”.

The matter involves multi-millionairess Katrin Radmacher and her former husband Nicolas Granatino. The case concerns the validity of the prenuptial agreement made in Germany between a German and French national living in this country. Mr Granatino challenged the validity of the pre-nuptial agreement in the English Courts stating that he had not received any independent legal advice and the marriage had produced two children.

The agreement was not upheld in the High Court although it was later upheld by the Court of Appeal following an appeal by Ms Radmacher. It was said that the Judge at first instance ought to have given greater weight to the pre-nuptial agreement to reflect the fact that both parties were from countries where such agreements are standard practice and enforceable. It was suggested that UK divorce laws should be brought in line with other EU states. Mr Granatino then appealed to the Supreme Court.

The Supreme Court yesterday dismissed Mr Granatino’s appeal. The essential point of principle now established is:

“The Court should give effect to a nuptial agreement that is freely entered into by each party with a full appreciation of its implications unless in the circumstances prevailing it would not be fair to hold the parties to their agreement”.

This goes further than the previous approach to pre-nuptial agreements. It now appears that in the right case, a prenuptial agreement can have decisive or compelling weight. Previously pre-nuptial agreements had been one of many factors that the Court takes into consideration when determining the appropriate level of financial settlement. The decision taken by the Supreme Court would indicate that pre-nuptial agreements could become legally binding in the future.

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