

New Jersey Court May Force Sale of House Post-Divorce

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Many issues arise after a ***Final Judgment of Divorce*** has been entered. One particularly prevalent issue in many cases has to do with the marital home. One party may wish to buy out the other party's interest in said home, or trade it off against another asset. However, it is not always that easy.

Generally, both parties' names are on the mortgage by the time of the divorce. The spouse who is taking over the home must refinance the mortgage to get the other spouse's name removed. If this isn't done in a timely manner, the spouse who has moved out may not be able to purchase another home because he/she is still obligated to the mortgage of the marital home. Non-payment on the mortgage may also affect the non-resident spouse's credit rating.

In the recent case of ***L.H. v. D.H.***, the wife remained in the marital home, but failed to take steps to refinance the mortgage pursuant to their agreement. She was also late in making some of her mortgage payments, which affected the ex-husband's credit.

The ex-husband filed a motion in court to deal with this problem. The judge was very concerned that the ex-husband's credit rating was being negatively affected, stating "this court takes judicial notice, as a matter of indisputable common knowledge, that a positive credit rating and score is one of the most valuable and important assets a party may presently possess."

The court granted the ex-husband's motion, and ordered that the house be sold in order to pay off the mortgage. The parties had 30 days to agree on a realtor, and if they were unable to agree, the court would appoint a realtor. If the ex-wife refused to sign the listing agreement, the ex-husband was given a limited power of attorney to sign on her behalf. While the house was listed, the ex-wife was ordered to maintain it and make all mortgage, tax, and insurance payments in a timely manner. However, if the ex-wife failed to cooperate or tried to block the sale, the judge said he would consider removing her from the house.

Issues that arise after a Final Judgment of Divorce can be tricky. It is for this reason that we recommend that you consult with experienced legal counsel immediately to discuss the issues of your situation.

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