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What happens to my home if I separate from my spouse?

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The Jaskot Team

Parties (or the Court) will most frequently sell the home and split the proceeds equally. However, if one spouse owes the other a payment to finalize their separation it will often be paid out of their share of the equity. Selling the matrimonial home allows spouses to establish a clean break and allows them to acquire housing that is consistent with their post-separation financial reality.

Another approach is for one spouse to purchase the interest of the other spouse and transfer title into their sole name. Typically this occurs when the children are living with one spouse in the home and both spouses feel that the existing home will provide continuity and comfort to children. In this instance, the spouses negotiate a price and one spouse purchases the interest of the other.

In rare cases, one spouse can receive exclusive possession of the home, which means one spouse is entitled to possess and use the home to the exclusion of the other. This is usually a short term solution. In exceptional cases, a Court can grant a spouse long



Darryl A. Willer



Charanjit K. Gill



Stanley P. Jaskot

term exclusive possession of a home. This occurs when there are children living with that spouse, the spouse is unable to afford reasonable alternate accommodation, and it is unlikely the other spouse will make consistent support payments in the future.

The most unusual option is for the Court to grant a Vesting Order, which changes title of the property from one spouse to the other. This occurs as a last resort when one spouse has failed to fulfill support obligations and there is a likelihood they will continue to do so in the future, or if one spouse owes the other a property settlement and the paying spouse does not have other resources to satisfy that payment.

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101 – 4200 South Service Rd., Burlington, ON L7L 4X5
1800 – 130 King St. W., Toronto, ON M5X 1E3
www.jaskotfamilylaw.ca