Transfer of £80 million investment portfolio to wife for IHT planning purposes did not 'matrimonialise' assets say the UKSC

Synopsis: A case in which the UKSC have determined that the transfer of an £80 million investment portfolio to an individual's wife, intended for the purpose of IHT planning, did not count as matrimonial property.

Date published: 10.07.2025

The UK Supreme Court (UKSC) have determined, in the case of Standish v Standish, 2025 UKSC 26, that the transfer of an £80 million investment portfolio to an individual's wife, intended for the purpose of inheritance tax (IHT) planning, did not count as matrimonial property.

Clive Standish (the respondent) and Anna Standish (the appellant) married in 2005 and had two children. Their marriage then broke down in 2020. In 2017, the respondent had conceived a tax planning arrangement, by which assets worth £80 million would be settled into trust for the couple's children, as a way of avoiding an IHT liability. These assets were first transferred to the appellant, for her to place them into Jersey based trusts. However, she continued to hold these assets in her name, despite the breakdown of the relationship.

The respondent went on to sue for the return of assets, which included the investment portfolio, in the England and Wales High Court (EWHC). The EWHC ruled that most of the assets, although originally the respondent's non-matrimonial property, had been 'matrimonialised' upon transfer to his wife. The court determined that £112 million of the total £132 million of assets disputed were matrimonial and divided these 60:40 in the respondent's favour.

Both parties appealed, but The England and Wales Court of Appeal (EWCA) unanimously dismissed the appellant's appeal and allowed that of the respondent. The EWCA stated that the source of an asset is key in determining whether or not it is matrimonial, as opposed to whose name it is held in. It then went on to redistribute the assets accordingly, giving the respondent £107 million and the appellant £25 million.

The appellant once again appealed, contesting that the transfer of assets in 2017 was a gift from the husband that matrimonialised the assets, and that they should therefore be distributed equally.

The UKSC has now unanimously dismissed her further appeal and upheld the ruling by the EWCA. It stated that the process in which a non-matrimonial asset becomes a matrimonial asset, is determined by how the parties have been dealing with the assets and whether this shows that, over time, they have been treating the asset as shared between them.

The UKSC stated that, in this case, this process did not occur. Transfer of an asset between spouses (or civil partners) in a tax saving scheme, irrespective of the time period involved, will not normally show that the asset is being treated as shared. Therefore, such transfer will not normally constitute matrimonialisation. The transfer of the assets from the respondent to the appellant was to save tax for the benefit of the children, and not for the benefit of the appellant.

Furthermore, the UKSC ruling also stated that "...the time has come to make clear that non-matrimonial property should not be subject to the sharing principle (though non-matrimonial property can be subject to the principles of needs and compensation). With some exceptions...the courts have been reluctant firmly to say that non-matrimonial property is not subject to the sharing principle."

Law firm, Russell-Cooke have said that this case will encourage practitioners in trust and estate disputes to pay closer attention to how assets were acquired and held during a marriage. The ruling makes it clear that it is important to consider how parties have been dealing with an asset and whether it has been treated as shared between them. The firm noted that this evidence is important in determining whether or not it is arguable the assets have been ring-fenced outside of the scope of the so-called 'divorce-check' often conducted in such cases.