Is your family trust romance proof?

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In the recent decision released 15 September 2025 *Lassnig v Zhou* [2025] NZSC 115, the Supreme Court looked at how equity in a family trust should be divided under s 182 of the Family Proceedings Act 1980 after the separation of parties who had been in a short relationship.

A claim under s 182 of the Family Proceedings Act is a claim for compensation from a trust, where a spouse says they would have benefitted from the trust if the marriage continued and need to be compensated for the loss of that benefit. It has become a 'trust busting' remedy that the Courts use more and more.

Mr Lassnig and Ms Zhou were married for just under three years. They each had an adult

child from a previous relationship, and didn't have any children together. They settled a family trust during their marriage and the trust purchased three properties. They expected that they would live in a home owned by the trust and would both benefit from the trust in their retirement.

Of the money that the parties put in to the purchases, Mr Lassnig contributed 18.75 per cent and Ms Zhou (or companies controlled by her) contributed 81.25 per cent. They also took out bank loans. The parties agreed that their non-financial contributions to the relationship were more or less equal.

The value of the properties increased due to inflation. The parties were agreed that those contributions and their mortgage repayments would be repaid (as well as the bank loans) but disagreed over how the remaining equity in the properties should be split.

The Family Court said the remaining equity should be divided 50/50, the High Court said 60/40 in Ms Zhou's favour, the Court of Appeal increased Ms Zhou's share and divided the equity 80/20 in Ms Zhou's favour. Mr Lassnig appealed to the Supreme Court.

Previous Supreme Court decisions on this type of issue have said that it's important that non-financial contributions are not treated as 'lesser' contributions than financial contributions, but the relationships in those cases had been longer or there were other factors that needed to be given weight as well as the financial contributions.

Here, the Court said in cases such as this "involving a short marriage where there are no children of the marriage, contributions inevitably assume more importance where there are no other countervailing considerations. In those cases, it is likely that any s 182 resettlement will generally reflect the parties' respective financial contributions."

In contrast to other cases looking at this type of issue, the main factors the Court said were important were the length of the relationship, that there were no dependent children, no countervailing factors, and the source and character of the trust assets. The Supreme Court said a "broad brush" assessment was needed.

Ultimately, where the marriage is this short, the difference in financial contributions will generally be the guiding factor.

The Supreme Court also said that equity reasons meant the financial contributions were

more important – although s 182 of the Family Proceedings Act looks at the consequences of the failure of the expected long-term marriage, this marriage had failed very quickly.

The Supreme Court disagreed with the Court of Appeal's reasoning, but ultimately agreed that the 80/20 split in Ms Zhou's favour was the right result. The appeal was dismissed.

To avoid this kind of litigation, the parties could have got legal advice about setting up the trust or signing a contracting out agreement. Our Family Law Team have got the expertise to steer clients through this type of situation, help them protect their assets, and keep control over the division of property following separation.