

Rural update - autumn: Rural update: Pre-nup protection?

26 OCTOBER 2009

CATEGORY:

[ARTICLE](#)

CLIENT TYPES:

[FAMILIES AND FAMILY OFFICES](#)

[FARMS AND ESTATES](#)

The breakdown of a family relationship and the long reach of the UK Family Courts have become a threat to the preservation of a traditional landed estate. In a landmark decision, the Court of Appeal has confirmed that pre-nuptial agreements could be given 'decisive weight'. This decision offers fresh hope to those seeking to preserve a landed estate or inherited wealth for future generations.

In *Granatino v Radmacher*, a German heiress entered into a pre-nuptial agreement in Germany prior to her marriage to her French husband. Under the pre-nuptial agreement the husband would have no financial claim but, following the breakdown of their marriage, the High Court awarded the husband £5.5m of the wife's £100m+ fortune.

In the High Court, Mrs Justice Baron held that the husband's entitlement should be 'circumscribed to a degree' to reflect the pre-nuptial agreement. The award for the husband included £2.5m for a home and £2.3m to provide an income.

The wife appealed the decision. Whilst the Court of Appeal unanimously agreed that the issue of the validity of and the effect of pre-nuptial agreements 'is more appropriate to legislative rather than judicial development', it noted that the position that pre-nuptial agreements are void for public policy reasons is increasingly unrealistic in modern times.

It is clear that whilst pre-nuptial agreements are not yet binding, the Courts are giving increasing weight to them. Although the husband in the case is appealing the decision, owners of rural property and those who have inherited assets should consider a pre-nuptial agreement to provide the greatest chance of protection in the event of a relationship breakdown.

Authors

Bertie Hoskyns-Abrahall

PARTNER | LONDON

Real estate

 +44 20 7597 6307

 bertie.hoskyns-abrahall@withersworldwide.com

Matthew Woods

PARTNER | LONDON

Private client and tax

 +44 20 7597 6496

 matthew.woods@withersworldwide.com

Patricia Milner

PARTNER | LONDON

Private client and tax

 +44 20 7597 6092

 patricia.milner@withersworldwide.com