

*The following three clips are samples of my SEO writing for legal blogs. The clients' names are redacted, but the samples are still copyrighted and unavailable for sale or reposting.*

## **Sample 2: Who Gets the House in a Florida Divorce?**

Your home is most likely the most expensive thing you own. When it comes to a divorce, chances are both spouses will want to take possession — both due to the home's value and because they both want to maintain some sense of normalcy after the dissolution of their marriage. They may even have an emotional attachment to the home they've lived in and improved over the years. If you can't come to an agreement about who gets the house, the courts will step in, and they'll follow legal guidelines for determining who gets it. How the court determines that depends on your state's laws regarding it.

### **Separate vs. Marital Property**

When the home was purchased and by whom usually matters. In Florida, if a home was purchased by one spouse prior to the marriage, it's probably going to be considered separate property, which means that spouse will retain ownership.

But if the home was purchased during the marriage, even if only one spouse's name is on the mortgage, it will likely be considered marital property, which means it's subject to division. That doesn't necessarily mean no one will get the home, just that the court considers it joint property.

It could also be considered marital property even if it was purchased by one spouse prior to the marriage if it was commingled with the marital estate. For example, if you purchased a home prior to your marriage then kept it as a rental property when you upgraded and the income from the home supported both you and your spouse, the home would probably be considered marital property.

### **Then Who Gets the House?**

Once it's determined to be marital property, the question becomes, "What do we do with the house?" Unless you're willing to continue living together after the split, either one of you gets it or neither of you does.

Unless you can reach a mutual decision, the court will use its best judgment in determining what happens, which could be any of the following.

*Sell the house* — Especially if it's determined that neither of you can afford the house once you've moved to a single-person income, the judge may order you to sell the home and split the proceeds fairly. That doesn't necessarily mean it will be a 50-50 split though. If one party can prove they contributed more than 50 percent toward the mortgage, the court may split it based on contribution percentage.

*Deferred sale* — If the couple has children, it may be determined that the home stays with the spouse who gets primary custody, then once the children reach a predetermined age, the house will be sold and the proceeds will be divided fairly. Unfortunately, this arrangement may cause issues for the spouse who isn't awarded primary custody, as their name will still be attached to the mortgage, which may affect how their credit is viewed by another lender.

*Property buy-out* — If one spouse doesn't want the house but the other does, the one who wants it can pay the other and, in turn, be removed from any paperwork making them legally responsible for the home. This may cause issues for the spouse who keeps the home if the lender has to agree to altered agreement terms, so it's important to understand what's truly practical. But this can be done through direct payment or an agreement for the spouse who doesn't keep the home to retain a larger portion of other marital assets (if available).

### **Exclusive Occupancy Rights**

It's important to understand that pending the divorce, both spouses may not have equal access to the home. If there's a conflict about who should move out, the court may grant one spouse exclusive occupancy rights. This means the other spouse will be required to move out, regardless of actual legal ownership, pending the final judgment.

There's no hard-and-fast rule on who gets the home, but there are several circumstances in which one can obtain exclusive occupancy rights. For example, if one spouse has been the victim of domestic abuse at the hand of the other or has reason to believe that's a threat.

They may also grant exclusive occupancy to a spouse who needs it for a specific purpose, for example, a parent who's the primary caregiver or the disabled spouse in the case of a specially modified house (in which case relocating is likely too expensive). But simply disliking one another generally isn't enough.

If a spouse is granted exclusive occupancy, the other spouse has to treat the home as though it were a stranger's — you must have permission to enter and can't expect to just be let in or let yourself in without the other spouse's permission — even if your name is still on the mortgage or title.

### **Worried About Losing Your Home in a Divorce?**

If you're concerned about keeping your home in a divorce, you need an experienced divorce attorney on your side. If you're in the Orlando, Florida area, the lawyers at [REDACTED] can help. Contact us at [REDACTED] for a free, no-obligation consultation.

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