

# “Whose Money Is It Anyway?” – The Supreme Court Gets Serious About Source

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3 Paper Buildings

In *Standish v Standish* [2025] UKSC 26, the Supreme Court has offered timely and much-needed clarification on the operation of the sharing principle in financial remedy cases, particularly in relation to the matrimonialisation of non-matrimonial property. For practitioners, this is now essential reading.

The case centred around the husband's transfer of £77.8 million to the wife in 2017. The purpose of the transfer was estate planning: the husband, facing deemed UK domicile for IHT purposes, sought to mitigate liability by utilising the wife's non-domiciled status. The funds were to be placed into Jersey trusts for the benefit of the couple's children, but the trusts were never set up, and the wife retained the funds in her sole name.

At first instance, Moor J held that the transfer had matrimonialised the funds. Although acknowledging their origin in the husband's pre-marital wealth, the judge found that the change in title and the intention to benefit the family sufficed to bring the assets within the sharing principle. He awarded the wife £45 million, about 40% of the matrimonial assets.

The Court of Appeal disagreed, holding that title alone was not determinative. It found that 75% of the £80 million represented non-matrimonial property and had not been subject to any conduct or treatment sufficient to transform it into matrimonial property. That sum, therefore, fell outside the scope of the sharing principle.

The Supreme Court unanimously upheld the Court of Appeal's decision and went further, definitively stating that *the sharing principle applies only to matrimonial property*. This marks a significant shift in emphasis, bringing long-standing judicial ambivalence to a close. Non-matrimonial property (typically pre-marital assets or gifts/inheritances from external sources) is not subject to sharing unless it has been clearly and consistently treated by both parties as jointly owned.

The following legal principles were applied in the case:

## **Conceptual Distinction Between Matrimonial and Non-Matrimonial**

### **Property:**

- Matrimonial property is the product of the parties' common endeavour during the marriage and is subject to the sharing principle.
- Non-matrimonial property, such as pre-marital assets or assets acquired by inheritance or gift, is not subject to the sharing principle but may be subject to the needs or compensation principles

### **Equal Sharing of Matrimonial Property:**

- The starting point for sharing matrimonial property is equality, though justified departures from equal sharing may occur.

### **Matrimonialisation:**

- Non-matrimonial property can become matrimonial property if, over time, the parties treat the asset as shared between them. This depends on how the parties deal with the asset and whether their treatment shows settled intent to share it.

### **Exclusion of Non-Matrimonial Property from the Sharing Principle:**

- The sharing principle applies only to matrimonial property. Non-matrimonial property is excluded from sharing unless matrimonialisation occurs.

### **Tax Planning Transfers:**

- Transfers of assets between spouses for tax planning purposes do not normally show an intention to treat the asset as shared. Such transfers are typically intended to save tax or benefit children, not to create shared matrimonial property.

### **Fairness in Financial Orders:**

- The sharing principle must be tied to achieving a fair outcome. Fairness is central to determining whether non-matrimonial property has been matrimonialised.

These principles guided the court's decision to uphold the Court of Appeal's ruling that the majority of the 2017 Assets remained non-matrimonial property and were not subject to the sharing principle.

This long-awaited decision brings much-needed clarity to the scope of the sharing principle and the treatment of non-matrimonial property in financial remedy cases. It provides welcome clarity for both practitioners and clients and reinforces the evidential burden required to show matrimonialisation of assets.

A copy of the judgment can be found [here](#)

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