

Divorced, But Married in Real Estate

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Divorce has never been easy. But these days, the sliding housing market is making it even harder.

Divorce lawyers have seen more disputes over housing issues as the recession deepens and many couples have chosen to delay divorce—or even reconcile—either because they can't sell the house or they can't afford to live separately.

“How to split their home is the key issue in getting a divorce,” says Janell Weinstein, an attorney in Paramus, N.J. who specializes in family and divorce law and real estate matters. “It has become harder for couples to agree on a sales price of a house in the tanking housing market.”

Weinstein further pointed out that dividing debt, like a mortgage, is a lot more difficult than splitting up assets.

A New Time Table

Before the crisis hit, it only took two weeks to sell a house in New York City if priced properly, according to Manhattan-based real estate broker Lauren Muss. But now it takes two months to one year to sell a house. Meanwhile, home sales in Manhattan have dropped 58% during the first quarter of 2009, according to data from Brown Harris Stevens & Halsted, a real estate services provider. Although the average price has gone down between 20% and 30%, many couples still have a hard time facing reality, expecting to sell their place at the price they paid for it. Disputes usually arise when a person wants to sell but their spouse or ex wants to wait, or they cannot agree on the value.

Facing such a challenging situation, some decide not to get divorced, at least for the time being. Divorce attorney Joshua Forman says some clients involved in an active divorce case called it off when the economy worsened. “What they meant was their houses weren't selling and they don't have enough money to live apart,” says Forman, a partner at Chemtob, Moss, Forman and Talbert, a New York City law firm specializing in divorce.

Settling on a Price

The scenario Forman often sees these days is that couples can't agree on a sale price for their property, often because the suggested market value, usually based on a recent appraisal, which is much lower than what they expected.

Jill Brooke, a divorce consultant and columnist at FirstWivesWorld.com and a divorce specialist, says one of her clients has decided to wait another year before she gets a divorce. She told Brook she is willing to stay in a loveless marriage for one more year till the housing price goes up.

Competing Interests

Normally people use the money they get from selling their house to finance a new place to live. In a divorce, however, the proceeds of the sale often pay for the divorce for either one or both parties. When one of the parties has a lower income than the other, they are generally more eager to sell the house, even in a down market. The party who makes more money is generally the one who has funded the mortgage, and thus is more likely to want to ride out the economic storm, with the hope of getting a higher price for the property. The end result is that many estranged couples end up living together longer than they'd otherwise like.

“It used to be that a couple would sell their house before getting a divorce but now more divorces are finalized before they are able to sell their house,” says Weinstein. With a reduced nest egg, many still live under the same roof because they can't afford to move out.

The Psychological Toll

When a divorced couple must live under the same roof, it's obviously a complicated scenario. Licensed psychotherapist Jonathan Alpert has seen more and more divorcing clients forced to cohabitate because of financial circumstances, and as a result are suffering from psychological distress. They are dealing with disputes and confusion about how to handle overnight guests and how to pay house-related expenses. Alpert also warns of possible domestic violence.

“It can be a really stressful situation. Sometimes one has to put a date on hold out of respect for the other. Resentment may grow from there,” Alpert says.

The Occasional Happy Ending

The gloomy scenario sometimes has bright side. When people don't have the means to finance a divorce, they are sometimes forced to work on their relationship. When they are stuck in the same house, they usually have to communicate. They'll set up house rules, and maybe plan meals together. Alpert even sees some couples doing the things that initially got them together, such as watching movies and going out to dinners.

“More couples are establishing new ground rules to make things work again,” Alpert says, “Spending more time together may reconnect them to their happy times together.”