

Am I in a De Facto Relationship?

By Casey Ieraci, Senior Associate, Coote Family

1 November 2018



The presence of a long-standing relationship even coupled with a period of cohabitation, is not, in and of itself, conclusive evidence that parties have entered into / or have been in a de facto relationship.

In *Somers & Collier* [2017] FamCAFC 123, the trial judge was not persuaded that the evidence demonstrated the parties had a mutual commitment to a shared life (the test for establishing a de facto relationship) despite the fact that the parties:

1. Dated from 1998 and late 2012;
2. Lived together from May 2011 until separation in late 2012;
3. Purchased property together and jointly borrowed money to fund the purchase;
4. Attended social and family events as a couple over many years and were known to some family and friends as a couple; and
5. Had a sexual and romantic monogamous relationship.

The trial judge placed weight upon the following findings:

1. That neither party referred to the other as a partner in any third-party notification, such as their taxation returns or health insurance policies; and
2. That Mr Somers rarely, if ever, spent the night at Ms Collier's residence until moving in during May 2011.

Mr Somer's appeal was unsuccessful. It was held that while the parties had a close personal relationship for many years which involved sexual activity, attending social events with family and friends, travelling together and providing each other with emotional support, their relationship did not constitute a de facto relationship pursuant to s4AA of the Family Law Act 1975 (Cth).



Address

Level One, 971 Burke Road
Camberwell, 3124, Australia

Contact

+61 3 9804 0035
mail@cootefamilylawyers.com.au