

Home purchases can be risky for unmarried couples

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By Tim Grant, Pittsburgh Post-Gazette



Daniel Marsula/Post-Gazette

In her recent book on love and money, Jacquette Timmons interviewed several couples on how they deal with finances, including an unmarried couple who decided to buy a house but wound up splitting up due to deep conflicts they had while house hunting.

"They realized their differences were beyond money," said Ms. Timmons, author of "Financial Intimacy: How to Create a Healthy Relationship with Your Money and Your Mate."

The irony of the story is if they had stuck it out long enough to sign closing documents on the house before ending the relationship, it might have been more complicated legally to split up the house than to actually go through a full-blown divorce.

When it comes to buying and owning common real estate, unmarried couples do not automatically have the same legal guarantees and protections that married couples do if the time comes to part ways romantically or one of them dies.

Married couples are assumed to have an equal stake in the house and equitable responsibility for the mortgage if one person dies or the marriage ends in divorce. But unmarried couples -- straight or gay -- run the risk of being left financially stranded in a worst case scenario.

It's possible for unmarried people to get some legal protection and peace of mind in the form of a written contract that is similar to a prenuptial agreement, only it covers specific issues on how the house will be paid for, maintained and ultimately divided if need be.

"I do see a lot of younger couples who are unmarried or engaged to be married buying a property together, but they don't contemplate what happens if the relationship doesn't work," said Karen Ackerman, a family law attorney with a practice Downtown.

The issue faces an increasing number of people who are postponing marriage or deciding not to get married at all. Allegheny County civil court records show the number of marriage licenses filed here has fallen from 8,036 in 1998 to 5,909 last year.

The national picture is even more dramatic.

According to "[The State of Our Unions 2009](#)," a report issued by the National Marriage Project at the University of Virginia, the U.S. marriage rate has fallen 48 percent since 1970.

Manisha Thakor, a personal finance coach and co-author of "Get Financially Naked: How To Talk Money With Your Honey," said the American public has been sold on the belief that owning a house is always better than renting.

She said she would not recommend unmarried couples buy a home together. But if they do, they should have a legal agreement.

"The financial landscape has become geometrically more complex. But at the same time, social morals have completely loosened up," Ms. Thakor said. "So it creates this perfect storm.

"Forty years ago, unmarried people living together was a scandal and buying a home you couldn't afford was a shame. Today, things have evolved to where you can do both. But people haven't woken up to the fact that it leaves us exposed."

According to Ms. Timmons, a written agreement between unmarried home buyers should highlight some major issues such as whether both names will be on the deed or title.

If the relationship ends and they sell the house, how will they split the proceeds? What will the living arrangement be until the house is sold? Or if one of them remains in the house, what's the financial responsibility of the person leaving to the one staying (or vice versa) and for how long?

There are any number of reasons why people who fall in love do not get married before buying a home together, but the potential pitfalls are just as numerous as those associated with rings and vows.

One partner's premature death is one of the simplest problems to address, since life insurance usually is available ahead of time. However, Larry M. Elkin, author of "Financial Self-Defense for Unmarried Couples," outlined a few of the stickier problems facing unmarried homeowners:

- Accidental disinheritance of one partner's family if the survivor acquires complete ownership, as is typical with jointly owned property.
- Nasty disputes over who gets to remain in the home after a breakup (even nastier if both partners have child-age children).
- It pits the decedent's family, who may want to sell the home, against a survivor who wants to remain in it.
- It could be an income tax trap (for which the law provides a special solution for married couples) if the survivor cannot prove how much he or she contributed to the cost of the house.
- There are potential inadvertent taxable gifts when one partner pays a disproportionate share of the purchase price, improvements, mortgage principal or other expenses.
- There's lots of room to trigger a palimony-type dispute if one person pays most of the cost of the home, but the other believes that he or she should be acquiring property rights in it.

"Almost everything is made smoother when potential problems are addressed in advance," Mr. Elkin said. "Some people choose not to get married and have enormous reasons for it. That doesn't mean they can't live together and make a home. But they must recognize the position the law puts you in and plan for it."

The number of married homeowners still far outweighs unmarried couples and single people who own homes, according to [the most recent annual survey](#) done by the National Association of Realtors in Washington, D.C.

Married people make up 60 percent of homeowners in this country. Unmarried couples own 8 percent of occupied houses; single women own 21 percent; and single men comprise 10 percent of U.S. homeowners.

"Nonmarried couples lose out on some of the special tax breaks for homeownership," said Michael D. Kresh, president of M.D. Kresh Financial Services in Islandia, N.Y. "They can't qualify for the \$500,000 exclusion of profits on the sale of the house available to [married] couples. And the calculations for cost basis and profit on sale are far more complicated."

If the high probability that many marriages will end in divorce is not daunting enough, unmarried couples have an even higher breakup rate than married couples.

Debra Neiman, author of "Money Without Matrimony," and a financial adviser at Neiman & Associates Financial Services in Arlington, Mass., said unmarried couples buying a house together should be mature enough to consider the possibility that things might not work out.

"No one envisions themselves walking two separate paths," she said. "But the fact is the divorce rate is over 50 percent. For many, a house is the biggest investment they will make, and it behooves them to draft a legal document in the event the relationship dissolves.

"Whatever the rules are, you should lay the groundwork when you're still in love. It's easier to talk about them when you're in love instead of when or if it falls apart. If everything is in writing, it could help both parties be more level-headed at a very emotional time in their lives."

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