



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

15 SEPTEMBER 2025

## **MEDIA RELEASE**

**BARTHOLOMAEUS ROLAND LASSNIG v QIAN ZHOU AND ANOTHER**

(SC 65/2025) [2025] NZSC 116

## **PRESS SUMMARY**

This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest: [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).

### **What this judgment is about**

This judgment is about the correct approach to s 182 of the Family Proceedings Act 1980 in the context of a marriage of short duration, where there was inequality of financial contributions, no children of the marriage and no other relevant factors.

Under s 182 the Family Court may vary the terms of a nuptial settlement (here, a family trust) where a marriage or civil union has come to an end. The purpose of s 182 is to remedy the consequences of the failure of the premise on which the settlement was made—the premise of a continuing marriage. The Supreme Court in *Clayton v Clayton [Claymark Trust]* [2016] NZSC 30, [2016] 1 NZLR 590 and *Preston v Preston* [2021] NZSC 154, [2021] 1 NZLR 651 described a three-stage approach to the s 182 inquiry. First, it must be determined that there is a nuptial settlement. Second, the court must assess whether there is a difference between the position of the spouse with the marriage dissolved, and the position they would have been in under the settlement had the marriage continued. If there is a difference then, thirdly, it must be determined how the court’s discretion should be exercised in a particular case.

### **Background**

Mr Bartholomaeus Lassnig and Ms Qian Zhou married in August 2012. In November 2012, Mr Lassnig and Ms Zhou set up the Lassnig Family Trust (the Trust), of which they were the trustees and primary beneficiaries. The purpose of the Trust was to provide for Mr Lassnig and Ms Zhou in retirement. The Trust purchased three properties during the relationship. Ms Zhou and Mr Lassnig both made financial contributions and loans to the Trust. However, Ms Zhou’s financial contributions to the Trust were significantly more than those of

Mr Lassnig. Mr Lassnig's contributions equated to 18.75 per cent of the total financial contributions. Their non-financial contributions to the marriage were roughly equal.

In July 2015 their relationship came to an end, and in April 2018 their marriage was formally dissolved. Issues arose as to how the Trust's equity should be divided, as the value of the properties had increased during the relationship. While Mr Lassnig and Ms Zhou agreed their respective financial contributions to the Trust should be returned to them, and that a sum should be paid to Mr Lassnig as part of resettlement, they disagreed as to how the remaining equity should be divided.

Ms Zhou applied to the Family Court under s 182 of the Family Proceedings Act 1980 for an order dividing the remaining equity in the Trust proportionate to each of their respective contributions.

### **Issues**

This appeal raises issues about the correct application of s 182 of the Family Proceedings Act to marriages or civil unions of short duration, in which one party makes a significantly greater financial contribution and there are no other significant countervailing factors.

### **Lower courts**

The Family Court ordered that the remaining equity should be divided equally between Mr Lassnig and Ms Zhou. On appeal, the High Court ordered that the remaining equity be divided 60/40 in Ms Zhou's favour. On a further appeal, the Court of Appeal ordered the remaining equity be divided 80/20 in Ms Zhou's favour.

On 17 September 2024 the Supreme Court granted leave to appeal. The approved question was whether the Court of Appeal was correct in its analysis under s 182 of the Family Proceedings Act.

### **Supreme Court decision**

The Supreme Court has unanimously dismissed the appeal, although its reasons differ from those of the Court of Appeal.

The Supreme Court held the Court of Appeal erred in its approach to the second stage of the s 182 inquiry as set out in this Court's earlier judgments in *Clayton* and *Preston*. The Court of Appeal incorrectly considered short to medium term consequences, while the second stage requires a longer-term focus. This is because it is premised on the continuation of the marriage. The Court of Appeal also considered the difference in Mr Lassnig and Ms Zhou's contributions at this second stage. Consistent with the purpose of the s 182 inquiry, contributions should normally be considered at the third, discretionary, stage.

Having identified errors of principle, the Supreme Court considered the correct outcome in this case, turning to the third stage of the inquiry. The Court noted that the earlier leading cases do not treat financial contributions as a controlling factor at this stage of the s 182 inquiry. However, the Court held that in a case involving a short-term marriage where there are no children of the marriage, nor any other countervailing considerations, financial contributions will inevitably assume more importance. This is also due to equity

reasons—namely, that the premise of a long-term marriage has failed very quickly. Accordingly, in a case with these features, any award under s 182 will generally reflect the parties’ respective contributions.

The Supreme Court, drawing on the factors referred to in the authorities, determined that there were no countervailing considerations in Mr Lassnig and Ms Zhou’s case. The key factors were that the marriage was of short duration, and the source and character of the Trust assets—namely, who was responsible for contribution of assets to the Trust.

The Supreme Court, while differing with the Court of Appeal’s reasoning, agreed that the remaining equity in the Trust should be divided 80/20 in Ms Zhou’s favour so that the orders made by the Court of Appeal as to the resettlement of the Trust stand.

Contact person:

Sue Leaupepe, Supreme Court Registrar (04) 914 3613

