

Too many unmarried couples are ignorant of the law

Many wrongly assume family law treats them as married after a few years

By ROBERT LECKEY, The Gazette, July 18, 2009, page B7

Judgment came this week in the family law case of the year, in which a woman sued her former partner - a prominent billionaire - for \$56,000 per month in alimony and \$50 million. Her claim? Federal marriage law and Quebec family law discriminate against unmarried couples. A Quebec Superior Court judge has now ruled against her. The woman's lawyer says she will appeal.

The trial last January made headlines, especially in Quebec. The media here nicknamed the parties - a court order protects their identities - Lola and Eric. The case became a spectator sport. Many, including women, were vicious in treatment of the claimant. They called her a gold-digger. They said she should have known she had no rights if they didn't get married, and she should have known something was up when he refused to marry her.

They pointed out how comfortable she already was in the house he paid for and with the child support he pays for their kids. The exotic facts - their meeting on a Brazilian beach when she was a minor and significantly his junior, their jet-set lifestyle, his extraordinary wealth - made the case more soap opera, less real life.

It's no surprise the judge rejected the woman's discrimination claim. These days it doesn't feel like unmarried couples are a persecuted minority - especially not in Quebec, where more than one-third of couples are unmarried. Moreover, when reforming Quebec family law 30 years ago, legislators here decided that keeping distinctions between married and unmarried couples best respected adults' autonomy.

The judge held that getting married or not is a choice. The consequences that follow are not discrimination. After all, the Charter cases on gay marriage a few years ago were about just that, the choice to marry.

It would be a mistake, though, for anyone to turn the page on Lola and Eric like a made-for-TV movie or run-of-the-mill celebrity trial.

Whether or not you believe this woman was in the dark about her rights doesn't matter. The point is, many Canadians remain in the dark about their rights and duties under family law.

People spend more time reading the manual for a new iPod than boning up on their family law. It's not surprising. But it's a problem. In the 2006 census, there were 1.4 million common-law-

couple families in Canada. It's the fastest- growing family form. Many people know that the law no longer distinguishes between children born to married and unmarried couples - the age of bastardy is behind us. They know that child support and custody are the same, marriage or no marriage. People also know from doing their income tax that, in lots of ways, our governments treat married and unmarried couples the same.

But many people assume that if they've lived together a couple of years, family law treats them as a married couple. That's wrong. Many people find out where they really stand only when a relationship breaks down. Then it's too late.

In most provinces, unmarried partners don't have to share their property on separation. There's no right for one partner to stay in the family's home - even if she has custody of the kids - if the other owns it. True, in all provinces but Quebec, there can be a right to spousal support. But that's a far cry from the division of property - including pensions - that takes place when married spouses divorce.

The group of unmarried people living together is diverse. Some are in their twenties, trying each other on for size. The most rapidly growing group is aged 60 to 64. Many of them have been married and divorced already. They likely know what they're doing. Still others are raising kids together, and often the woman, like many married mothers, has reduced or stopped paid work.

The judge is right that using the Charter to treat all these people like married couples, as the claimant wanted, would be far too blunt.

Diversity of family forms is a positive development. But where people aren't informed about their legal rights and duties, they can't make meaningful choices.

This week's case is best taken as a reminder for people - whatever their province - to make sure they know how their family life fits into law.

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