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## Down and out in Splitsville

Divorce can blindside you in more ways than one

**Joanna Pachner, Financial Post**

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Illustration By Kagan McLeod, National Post

For a quarter of a century, Nora Binger planned her future as one half of a well-off couple. She and her husband had no children, earned good money and liked to spend it. When, after 27 years, they decided to divorce, their main asset -- a home on the outskirts of Toronto -- had to be sold to divide the proceeds. Forced to unload it fast in an unfavourable market, they didn't get a great price. Soon after the divorce was finalized, at the age of 56, Ms. Binger (not her real name) was laid off and had to take a job at one-third of her previous salary. Her earlier high-earning position meant she received no spousal support in the settlement. What's more, she had depleted her RRSPs to cover expenses during the months of separation leading up to the final break.

"Before the divorce, her retirement plans were wonderful, they were going to have a great income," says Eva Sachs, a certified financial planner in Toronto to whom Ms. Binger came for advice. "Now her retirement future is looking very bleak. She will never recover the retirement lifestyle she'd been hoping for."

Finding yourself suddenly alone late in life and, worse, poorer, is a scary scenario. When people marry, that's the farthest thing from their minds. Rather, they envision decades of married bliss culminating in golden years spent in a home that's been paid off and supported by pensions and savings geared to shared living expenses.

But in more and more cases, those couples end up splitting before the dream comes true or shortly after. "Often, after someone has retired, there's a petition for divorce because now their lives have changed and they have to really live together 24/7," says Akeela Davis, a financial planner in Vancouver and author of *Divorce Dollars: Get Your Fair Share*. While more than a third of marriages in Canada end in divorce, the age of divorcing couples has been creeping higher each of the past 17 years. "Grey divorce" among people over 50 is a major Boomer trend.

If running out of money in retirement is a common concern, the risks multiply when you find yourself with half the assets and an entire household to maintain by yourself, Ms. Sachs notes. Meanwhile, Canadians' life expectancies are stretching while many retirement accounts and pensions have diminished in value due to recent market volatility. "The closer the divorce is to retirement, the tougher it is to recover," says Ms. Sachs. "A lot of these people are going to have to work longer or go back into the workforce" -- sometimes after having been absent from it for decades raising kids.

Easy access to credit may have enabled the couple to live beyond their means, so they head into their newly single life with unrealistic expectations. "They find it a rude awakening to undertake harsh cost-cutting measures in order to support two households instead of one," says Ms. Sachs.

While divorce laws vary from province to province, in most cases the assets accumulated since the marriage are split down the middle. Amid the stress of the break-up, the temptation is to pick the easiest solution -- you keep yours and I keep mine. A dangerous move, experts say.

"Normally, the woman is so desperate to get out of the relationship and the man wants to keep the pensions, so she just throws up her hands and says, 'fine,' " says Ms. Davis. "And nine times out of 10 this comes back to haunt her." A client of hers, for example, split from a husband with a much higher income and pension. Typically, he'd have to pay a portion of his pension to her in the settlement, but she just wanted out of the relationship and agreed to split the house and for him to keep his pension. "I modelled what the situations would be 10 years into retirement so she could get a sense of what she was giving up," says Ms. Davis. The result: his income and assets would continue to grow while hers, at best, would flatline.

This type of projection model, which financial planners specializing in divorce usually provide, takes into account everything from the varying tax treatments on different assets to income and expense expectations, all of which have an impact on the net sums each spouse receives. Say you have a \$500,000 home and \$500,000 in RRSPs. That home is actually a more valuable asset because, as the primary residence, it can be sold tax-free, while the RRSPs are subject to taxation when they're withdrawn. On the other hand, if a divorcing spouse opts to keep the home in lieu of the retirement accounts but has little cash on hand, he or she may have trouble paying taxes, maintenance and other expenses. What's more, those outlays will cut into their ability to contribute to their own retirement investments. Spousal support, meanwhile, is taxable income for the spouse receiving it, and negotiating a figure that pushes the person into a higher tax bracket may result in less money than the person needs. "You can't really do [those calculations] in your head," says Ms. Sachs. "It's dangerous to do it in your head."

So, how do you protect your interests in case the relationship, now so blissful, falls apart? For starters, be aware of the family finances throughout the marriage, planners advise. "It's surprising in this day and age how many spouses, when faced with divorce, are not aware of details of investments, pensions, survivor benefits, company benefit plans, insurance policies, business interests," says Ms. Sachs. She also recommends that both spouses keep their own bank accounts along with joint accounts, and both have credit cards in their own name so they can build individual credit histories and ratings.

Ms. Davis recommends that people in all income brackets draft prenuptial agreements. "Then you're putting agreements together when you care about each other, rather than on the other side of marriage when you're bitter," she says. Such agreements should cover, at the very least, how each of you will be provided for in retirement. The additional benefit, she says, is that a prenup addressing retirement finances spurs people to save. "In an odd way, it encourages people to be more aware of how they treat their partners," she says.

This type of agreement is especially important in second and third marriages, which break down almost twice as often as first ones. It's not unusual for at least one partner to come into such a marriage with considerable assets or with children from a previous relationship. The complexities of blended families and legal quirks can undermine the best-laid retirement plans.

Doug Lamb, who runs Toronto-based Spera Financial Inc., tells the story of a client who got the matrimonial home in her divorce and then remarried. Her new spouse, a widower who had inherited substantial money and sold the home after his first wife died, moved into his new wife's home. "As soon as they're married, that house becomes half his," says Mr. Lamb. The marriage didn't last long and ended bitterly.

"She's now lost half her house, which was her major financial asset, and doesn't have a pot to whistle in," says Mr. Lamb. "Is it fair? Absolutely not. Is it the law? Yes."