



COHABITATION

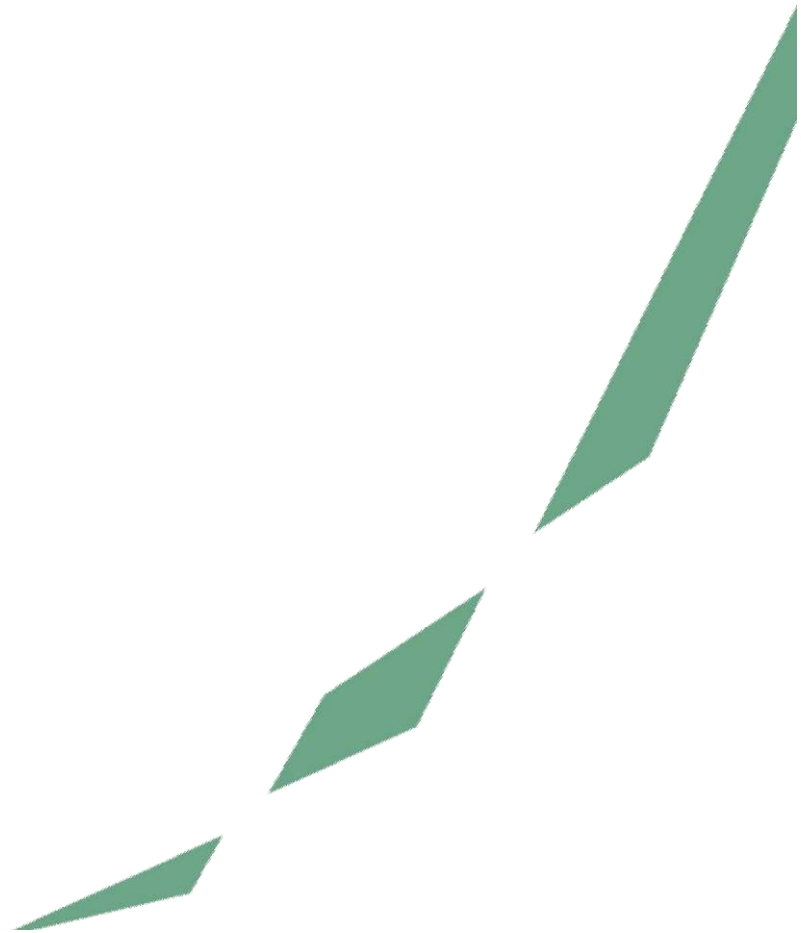


Table of contents

- Preamble 1
- 1 How should we distribute assets in the event of a breakup? 2
- 2 What to do if there is disagreement regarding ownership? 2
 - 2.1 Determination of ownership 2
 - 2.1.1 Sole ownership 2
 - 2.1.2 Co-ownership 3
 - 2.2 Acquisition of co-ownership share 3
- 3 If we agree that you own the item together, how do you then distribute the values? 4
 - 3.1 Dissolution of co-ownership 4
 - 3.2 If there is debt associated with the item 5
 - 3.3 If the co-owners don't reach an agreement 5
- 4 Compensation 5
 - 4.1 What constitutes a «significant economic benefit»? 6
 - 4.2 It must be reasonable to award compensation to one cohabitant 6
- 5 Debt and breakup 6
- Frequently Asked Questions 7

Preamble

In recent decades, it has become more common to choose cohabitation over marriage. Statistics from SSB (Statistics Norway) show that approximately 29% of Norway's population were cohabitants in 2016. For some, this is a deliberate choice to avoid committing to the same rules that apply to spouses, while others may not consider what this choice could mean for their legal status. An important difference between cohabitation and marriage is that there are no general cohabitation law regulation settlements after the end of cohabitation. The Marriage Act cannot be applied in cases where the parties are not married.

What happens to cohabitants when they separate is primarily regulated by case law and legal theory. This can make it difficult for many to understand their own legal status. In this brochure, we aim to provide an overview of the main principles regarding the rules that apply when cohabitants separate.

The brochure was brought up to date according to the current law as of December 2018 and was translated in May 2024. Jusshjelpa i Nord-Norge will not be held accountable for any subsequent changes after this date.

1 How should we distribute assets in the event of a breakup?

There are no rules that determine the distribution of assets and belongings in the event of a breakup between cohabitants. Cohabitation does not change the ownership of assets that the cohabitants had before they started living together. Each of them will still own what they owned before moving in together. As for assets acquired during the cohabitation, the basic principle is that each cohabitant owns what they acquire themselves. Assets acquired jointly are part of co-ownership between the parties.

The starting point in the event of a breakup is that each takes what they own themselves. Furthermore, cohabitants are free to agree on how the distribution of assets and belongings should be handled. There are some exceptions to the principle that each party keeps all the assets from the items they own themselves. The exceptions are that the other party may have acquired co-ownership in the item, meaning an acquisition of a co-ownership share (see point 2.2), or that the other party may be entitled to compensation (see point 4).

If a prior agreement has been made regarding the division settlement (cohabitation agreement), the assets shall be distributed according to this agreement. Oral agreements are as binding as written ones, but it may be difficult to prove the existence of an oral agreement. The party claiming rights under the agreement must prove the existence and content of the agreement.

2 What to do if there is disagreement regarding ownership?

2.1 Determination of ownership

Definition clarification:

Sole ownership: one person owns the item alone

Co-ownership: two or more people own the item together

2.1.1 Sole ownership

The person who acquired something becomes the owner of it. This means that the person who earns money becomes the owner of the money, the person who buys the car becomes the owner of the car, the person who inherits a house becomes the owner of the house, and so on. What a cohabitant acquires themselves will be in their sole ownership.

The owner can freely dispose assets that are in their sole ownership. If one cohabitant owns the property alone, he or she is free to, for example, sell the property.

2.1.2 Co-ownership

Cohabitants often own some assets together, making them co-owners. Co-ownership can be established in two ways: by agreement or by both contributing to acquiring the asset, typically by each paying their share of the purchase price.

If an asset is held in co-ownership, both co-owners can usually use the co-owned item. What the co-owners can do with the item may be specified in their agreement. If nothing has been agreed upon, either expressly or tacitly, the rules of the Co-Ownership Act apply.

According to the Co-Ownership Act, the co-owned item can be used for the purpose it was acquired for, and in usual manner. Generally, each co-owner can use the item as if they owned it, but not beyond their share of ownership. The use of the acquired item must be conducted in a way that does not harm the other co-owner. Maintenance expenses are shared according to the size of each owner's share.

2.2 Acquisition of co-ownership share

It is also possible that one cohabitant initially owned something alone, but then the other cohabitant has acquired a right to co-own the item with the other, in co-ownership.

In such cases, an assessment must be made to determine whether the other party has the right to co-own the item with the one who initially owned the item alone. If the cohabitants cannot agree, the assessment must be made by a court.

Several factors are involved in the assessment of the ownership. When making such an assessment, various factors must be considered. First at the acquisition of the relevant asset, and also factors from after the acquisition. Essentially, one will examine whether the acquisition of the item was a joint project between the cohabitants, and whether one cohabitant has directly or indirectly contributed to the acquisition of the item that is in sole ownership of the other cohabitant. Among other things, these following factors are considered:

- The agreement made at the time of acquisition of the item.
- Who paid for the item.

- If the acquisition was financed by a loan, it will be of great importance who has paid off the loan.
- Who is registered as the owner. This only applies to items registered in a registry, such as real estate, cars, or boats.
- Who has used the item. If only one person has used the item, this indicates that they own it alone.
- Who has been responsible for maintenance and taken care of the item.

The general rule is that whoever buys or acquires the item also owns it. However, the factors mentioned above may lead to the situation where a person who was not initially the owner, still could have a claim to become a co-owner of the item.

There may also be cases where cohabitants own something together, but where one cohabitant acquires a larger share of the co-ownership in the joint property. For example, two cohabitants may jointly acquire a loan-financed home, but then one cohabitant contributes much more to the repayment of the debt. In the event of a breakup, it will then be a question of whether one cohabitant has acquired a larger co-ownership share in the home based on the payments.

3 If we agree that you own the item together, how do you then distribute the values?

If you own something together, as mentioned earlier, you are co-owners.

3.1 Dissolution of co-ownership

Co-ownership can be dissolved. One way to dissolve co-ownership is for one of the co-owners to keep the item and buy out the other co-owner's share. This way, the person retaining the item becomes the sole owner of it. However, this solution requires agreement between the parties. In such dissolution of co-ownership, each co-owner has a right of first refusal.

Agreement between the parties is also required for the valuation of the item. For real estate, it may be difficult to agree on the value. In such cases, it may be appropriate for the parties to agree to have an appraisal conducted and to share the costs of this. Furthermore, the parties should agree that the appraisal will be binding for further settlement.

If no one wishes to keep the item, the co-owners can collaborate to sell it.

3.2 If there is debt associated with the item

If there is debt associated with the item, such as a mortgage, only one party's share of the net value (the total value minus the debt) should be bought out.

Furthermore, it is natural for the party taking over the item to also take over the responsibility for the remaining debt. If the parties are jointly responsible for the debt, the debt takeover must be done in cooperation with the bank. The party selling their share does not automatically get rid of their debt responsibility. This must be agreed upon with the bank.

3.3 If the co-owners don't reach an agreement

If agreement cannot be reached, there are other solutions for dissolving co-ownership. Each co-owner can file a legal claim for the dissolution of the co-ownership, see section 15 of the Co-Ownership Act. If the item cannot be divided, which is often the case, it shall be sold through the enforcement authorities. In such cases, the item is sold through foreclosure sale, which often results in a low selling price. A significant portion of the selling price will also be used to cover the costs of the foreclosure sale. Therefore, the parties risk losing some value by choosing this solution.

4 Compensation

As previously mentioned, the general rule is that each party takes what they own themselves and receives the value from the asset.

A narrow exception to this principle is that a cohabitant in certain cases may be entitled to compensation from the other cohabitant in the event of a breakup. In matters concerning compensation claims, case law has established that two conditions must be met for a cohabitant to be entitled to compensation:

- It is required that one cohabitant has received a significant financial benefit.
- In addition, it must be reasonable for this cohabitant to be awarded compensation.

First, we will look at what is meant by the requirement for a financial benefit under point 4.1. Finally, we will examine the criteria for reasonableness under point 4.2.

4.1 What constitutes a «significant economic benefit»?

The term "significant economic benefit" implies that the value received by the recipient should be assessed. This economic benefit must be of a considerable size. There is no distinction between contributions through work or assets. The exact magnitude of the benefit must be evaluated from case to case.

Since there is no mutual duty of support between cohabitants, as there is among spouses, it is natural for the cohabitants' living expenses to be shared equally between them. It is only when one cohabitant pays more than their half of the expenses that one can speak of an economic benefit.

However, it is important to be aware that the general rule is that cohabitants should contribute to the common household without equalizing any differences. It is not the case that every "imbalance" between contributions can later be rectified through compensation.

4.2 It must be reasonable to award compensation to one cohabitant

A cohabitant can only be awarded compensation if it is considered reasonable that he/she should receive it. Several factors will be relevant in the assessment, such as including the parties' expectations, the nature and extent of the contribution, the duration of the cohabitation, and the parties' financial situation.

If the cohabitants cannot agree among themselves that one is entitled to compensation after the breakup, it will be up to the courts to decide if such a claim is brought forward.

5 Debt and breakup

One can obtain more favorable loan terms from a bank if someone joins as a co-signer for the loan. Often, cohabitants act as co-signers for each other's loans. When the relationship ends, the co-signer often wishes to be relieved of responsibility for their former partner's debt.

There is no automatic termination of co-signing for debt after a breakup. The co-signer's agreement with the bank remains valid. This applies regardless of who has used the borrowed money and regardless of what the money has been used for. If the co-signer is to be removed, this must be done through an agreement with the bank.

What often needs to happen is that the person taking over the debt responsibility refinances the original loan. This means that they take out a new loan for which they alone are responsible for, and use it to repay the original loan in full.

For more information, please contact your bank.

Frequently Asked Questions

Is everything my former partner and I bought during our cohabitation co-owned between us?

- No, quite the opposite. In principle, you are only co-owners if you have agreed to it or if you have acquired something together.

I am struggling financially after the breakup. Can I demand money from my former partner to get by?

- No. Your former partner is not generally responsible for any financial problems you have after cohabitation. Cohabitants do not generally have a duty to support each other during cohabitation.

My former partner lived rent-free with me throughout the cohabitation. Can I now demand rent for this period?

- No. You would have had to agree on this at the beginning of or during the cohabitation.

My former partner was unemployed during the cohabitation, and I paid for everything. Can I demand anything back from my former partner now?

- No. This would also have needed to be agreed upon initially.

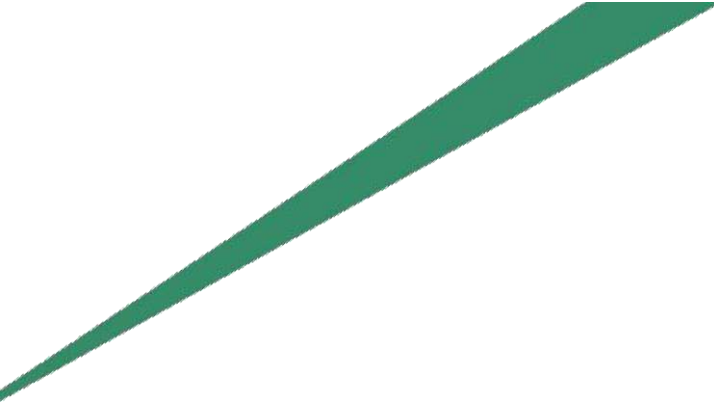
My former partner used their entire income to pay off the mortgage on the house they own. I used my entire income to cover the household's daily expenses. Now my former partner has a fully paid-off house, while I have nothing left. Can I demand money from my former partner as compensation for this?

- This is a common pitfall, and the answer is generally no. Cohabitants must carefully consider how they wish to distribute expenses during cohabitation to avoid ending up in such situations at the end of the relationship. It is too late to think about this

after the relationship has ended. However, you can easily protect yourself against such situations by making a cohabitation agreement when you move in together.

I renovated the house for my former partner. Can I demand payment for this now?

- No. Unless you have agreed otherwise, there is no basis for reimbursing such expenses. In exceptional cases of significant unfairness, there may be grounds for compensation through a compensation claim, see point 4.



Jusshjelpa i Nord-Norge
UIT Norges arktiske universitet
Breivika senter 9037 Tromsø

Telefon: 776 44 559 www.jusshjelpa.no

