

A Prenup Saved Me When My Husband Left. One Could Save You, Too.

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They have long been considered unromantic, but prenuptial agreements are being embraced by some couples as a way to protect themselves on their own terms.



Credit...Lisk Feng

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6 MIN READ

The only local job available was tapping maple trees, and I couldn't even get an interview.

I had moved to a small town in New Hampshire after falling in love in Montreal with a medical student in his final year at McGill University. An American, he had committed to a four-year residency in New Hampshire, and I decided to leave Canada and follow him there.

Without a job, I joined him a year later, but I was miserable, missing my previously lively social and professional life as a newspaper reporter, living in Toronto, Montreal and Paris. This was a time before the internet existed, and making new friends felt impossible. My boyfriend worked long hours and was mostly absent or exhausted. His residency salary was very low, so we were on a tight budget, and it was a two-hour drive to the nearest city.

MONEY 101 EDUCATION

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After 18 months of fruitless efforts to settle happily, I asked him to move to New York so I could find a job, and he agreed. My job search took six months, and he got an instant \$14,000 raise with his new residency. Thanks to a family inheritance, I had money for a down payment on a suburban co-op apartment.

By the time we began planning our wedding, six years after we met, he was earning six figures as a practicing physician. I knew nothing of New York marriage laws, and by that point was wholly reliant on my fiancé's income and felt extremely vulnerable. So I consulted a lawyer — at \$350 per hour in 1992 — and asked what I might win in case of a divorce.

His answer stunned me: If the marriage was brief, and because I had a college education, a strong résumé and good health, a court would offer me nothing, he said, since I was fully capable of supporting myself.

So I asked my fiancé for a prenuptial agreement to protect my only true asset, the apartment. Having chosen medicine in his late 20s after leaving a low-paying industry, my fiancé had just his medical degree and a clarinet as assets.

Prenups have long been deemed cold and unromantic, and often come with a major power imbalance between the spouses, but with so many marriages ending in divorce — and some states offering minimal post-divorce judgments — a prenuptial agreement can save money, time and emotional pain. Knowing in advance what each person is entitled to mitigates the costly and time-consuming need to argue over everything later.

The agreement gave me an immediate low five-figure sum, which would cover my legal fees, health insurance and other costs. He would retain his full pension and health insurance.

My fiancé agreed to the terms without endless arguments; I had certainly put my life and career on the back burner to accommodate him.

When my husband left me after two years of marriage and quickly remarried a colleague, I had the safety net I badly needed. Emotionally devastated, I kept my home and could rely on alimony to get back on my feet.

A prenuptial agreement is basically a legally binding agreement by both parties to fully disclose their assets and their debts. It can also delineate a wide range of issues, including who will pay a mortgage, who will create a separate fund to compensate a stay-at-home partner or parent and where the signatories will live in case of divorce. It quickly clarifies where each person stands financially and creates a forum for a candid discussion of how each wants to manage his or her money after marriage.

The expense of creating one varies widely, with the larger cost — possibly \$5,000 to \$10,000 — typically assumed by the person requesting it. The partner reviewing the document with a separate lawyer to ensure the agreement isn't unfavorable might pay

about \$3,000, according to Raymond Hekmat, the founder of Hekmat Law and Mediation in Los Angeles.

Maria Squitieri, a 51-year-old teacher in New York, made the mistake of signing an agreement that she did not take the time to review just a few days before her wedding. She was raised by her grandmother and said she was “extremely naïve and trusting to a fault.”

“I really had nothing going into the marriage” at age 33, said Ms. Squitieri, whose ex-husband was a high-earning professional entering his second marriage. “I barely glanced at the contract. I probably saw this older man as my savior.”

If the marriage ended in divorce, Ms. Squitieri said, she assumed that she would be fine and could return to work. She was young and healthy, eager to marry a man whose generosity to his children from his former marriage and to her grandmother had impressed her. She worked for the first two years of her marriage, then, after her son was born, left the work force for seven years to stay at home with him.

The marriage failed, and the agreement forced her to stay in New York City with her son, where the only affordable housing for them on her teacher’s salary was a studio apartment. She fell into debt — even as the agreement guaranteed her son private school tuition, summer camp and tutoring. The alimony she received was insufficient to live on without a job, which took her two years to find.

“I now realize you can be a romantic who believes in love and still be smart and make a plan just in case,” Ms. Squitieri said.

Many people shy away from even discussing creating a prenuptial agreement, said Tori Dunlap, a financial blogger, podcaster and author. “The vast amount of people aren’t discussing money at all when they enter a relationship,” she said.

While remote work has gained popularity, some professions — like medicine and academia — still require cross-country moves, which can hurt the earning power or income of a trailing spouse, especially while the spouse is parenting.

“Making those sacrifices is a good negotiating point,” said Brent Cashatt, a co-founder and partner at Cashatt Warren Family Law in Des Moines. “It’s a reason to make the agreement more fair. It’s a reasonable request.”

Mr. Hekmat said creating a prenuptial agreement should be a “win-win situation.”

“They create intimacy and trust,” he said. If the negotiation becomes ugly and embattled, he said, it may be a sign to reconsider marrying that person altogether.

Agreements have also changed over the last seven to 10 years, Mr. Hekmat said.

“The way prenups were handled back in the day, it came from one person in a place of power — generally the man — but today marriages have changed, relationships have changed and work has changed,” he said. “My clients are generally professionals in their 30s and 40s or entering a second marriage. More people are getting married later in life. They’ve lived alone. They’re used to spending their money as they wish, especially women.”

When everything is up for discussion



Linh Yan and Tonya Yan in the courtyard of their home in San Francisco, Calif. They agreed on a prenup before marrying. Credit...Chloe Aftel for The New York Times

For Tonya Yan, 32, and Linh Yan, 27, creating a prenuptial agreement was a simple and easy decision. The couple live in San Francisco and married in November. Both women grew up in Asian families — Linh Yan is Vietnamese, and Tonya Yan is Chinese — which they said eased their frank discussions of finances. “Money is not a taboo topic for us,” Tonya Yan said.

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Being a gay couple also made it easier to discuss a prenuptial agreement, Tonya Yan said, because “when you throw the script out” on traditional marriage, everything is up for discussion.

Tonya Yan is an international tax lawyer who earns about twice as much as Linh Yan, and both felt strongly about keeping their finances separate. “It means we’re not taking the other person for granted,” Linh Yan said.

For Tonya Yan, having a legal document they both discussed at length and agreed to readily without rancor is like having a seatbelt. “You put it on hoping you never need it, expecting to crash,” she said.

The couple lived together for four years. When they decided to marry, they did not want California’s community-property divorce laws, which dictate a 50-50 division of assets and debts, to apply to them if they separated. Instead, they established their own rules using a prenuptial agreement.

“California’s laws are particularly far-reaching, and can trip up couples in ways they never anticipated,” Tonya Yan said. “Homes and real property can potentially be deemed half-owned by a spouse, even when that spouse never paid a cent to the down payment or signed any deed,” she said. Conversely, she added, “a person may suddenly find themselves liable for half of a debt that they never even knew their spouse had.”

Linh Yan said she felt similarly about California laws and described herself as an independent person. “Even when there is a small chance for a divorce to happen, I don’t want to depend on my wife’s money when things may go south,” she said. [Nine states](#) currently operate with community-property divorce laws.

“We have joint bank accounts, joint purchases, shared bills — sharing isn’t the issue,” Tonya Yan said. “But it’s the difference between what we choose for ourselves versus what the state dictates for us.”

Tonya paid between \$10,000 and \$12,000 to draw up the agreement using Mr. Hekmat’s services, while Linh paid her own lawyer \$3,000 to review it.

“People ask me, ‘Should I get one as well?’” Linh Yan said. “I think it’s a luxury since the people who most need it — financially vulnerable — are least likely to afford one.”

Many couples planning to marry don’t investigate their state’s divorce laws, said Ms. Dunlap, the financial writer. “The thing a lot of people don’t realize is that we all have prenups. It’s what the state decides. If you don’t like that, you might want a prenup.”

When a Marriage Comes to an End

Divorce is often hard. But there are still ways to ease the transition and learn to embrace your changing reality.

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