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More on the ring...

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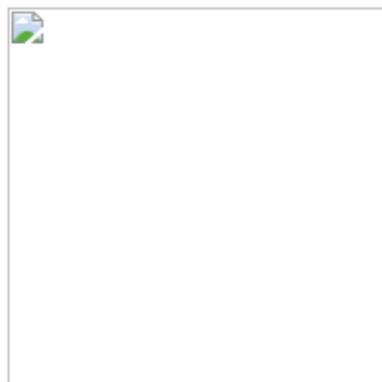
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If Things Fall Apart, Who Gets the Ring?

WHEN an engaged couple breaks up, does the ring go back to the one who bought it? Or does it remain in the hands — and possibly on the hand — of the recipient, especially if she was the one spurned?



Though a seemingly inconsequential issue when measured against the prospect of an unhappy marriage, the conflict over the ring has led couples to court.

“I probably get an e-mail every two or three weeks asking for my advice on this question,” said Joanna Grossman, a [Hofstra University](#) law professor who has written on the subject.

“It is something that a lot of people dispute,” Ms. Grossman said. “People can spend an exorbitant amount of money on rings they cannot afford and then it is not uncommon for them to break up. But the rings are not usually worth enough to offset the cost of litigation.”

One high-profile case that was headed to court but was diverted by an agreement earlier this year was that of Sharon Bush and Gerald Tsai, the billionaire investor who has since died. In December 2006, Mr. Tsai gave Ms. Bush (the former wife of [Neil Bush](#), a brother of the president) an 11-carat canary-diamond ring he bought for \$243,040 at Saks. In January, the engagement was called off, and when Ms. Bush did not return the ring, Mr. Tsai filed suit in Manhattan Supreme Court seeking its return.

Ms. Bush and her lawyer, Raoul Felder, took the position that the bauble was not an engagement ring but a gift, and therefore did not have to be returned. Mr. Felder said that terms of the agreement could not be divulged but that she has since been seen wearing the ring.

“This was one of the other presents given on Christmas,” said Mr. Felder. “It was a nonconditional gift. I can’t understand how a man is not embarrassed to ask for his ring back. It always amazes me what happened to chivalry.”

Chivalry aside, in recent years courts have almost always held that the ring goes back to the buyer, no matter the circumstances. The premise is that the engagement ring is a conditional gift — the condition being that a marriage take place. And if it does not, the agreement is rendered null and void. Furthermore, courts have ruled that it does not matter who broke the engagement, the donor or the recipient.

“If you have no-fault divorce, you must have no-fault engagements,” said Joanne Ross Wilder, a principal in the Pittsburgh law firm Wilder & Mahood. In 1999 she won a ruling in a Pennsylvania case that is viewed as precedent setting: the ring should be returned to the donor.

“Before this case, there was a split of opinion in the United States as to whether the donor should get the ring back if he broke the engagement without just cause,” Ms. Wilder said. “If you get into who was at fault in deciding whether the ring should remain with the donee or return to the donor, you do a counterintuitive analysis. Isn’t the purpose of an engagement to be a trial period and isn’t it better to break an engagement than a marriage? Whose fault is irrelevant.”

But state by state, that view does not always prevail. Gary L. Nickelson of Forth Worth is president-elect of the American Academy of Matrimonial Lawyers. He said that in Texas exceptions were sometimes made depending on who instigated the breakup. Although the courts there generally accept the premise that an engagement ring is a conditional gift, he said that in a 2003 decision: “the court decided that if the donor was the one who broke the promise, then the recipient could keep it. It gets sticky if the groom calls it off. He has broken the condition, so some courts say that he should probably suffer and not gain rights to the ring.”

Ms. Grossman noted that trying to establish fault can be tricky at best and painful at worst. “Taking two people who decide they are not right for each other and putting their entire relationship on trial is usually not worth the economic or emotional cost,” she said.

Ownership of the ring did not become a problem for Dean Fechner and his former fiancée when their wedding plans were canceled in June 2007.

“The man should definitely get the ring back,” said Mr. Fechner, 36, of Manhattan. “It was intended to show that I wanted to spend the rest of my life with this person and that I put a value on our relationship.”

Last month Mr. Fechner, who works on Wall Street, sold the three-carat custom ring for \$15,000 (\$3,000 less than he said he paid for it) on [REDACTED], a Web site that sells rings for couples who have changed their minds.

Letitia Baldrige, the etiquette expert, said the person who breaks the engagement is responsible for making good. “If the woman breaks it, she should send the ring back immediately,” Ms. Baldrige said. “If it is the man, he should say, ‘Of course you keep the ring.’”

Should the ring be a family heirloom, Ms. Baldrige added, the woman should return it. “But then he should buy her another piece of jewelry or simply give her a credit at a jewelry shop,” she added. “Nice people do that.”

Even those lawyers who define the ring as part of the contract to marry, and therefore subject to return if the contract is voided, recognize the need for exceptions.

“Assuming Mr. Wonderful is married to someone else and getting divorced and gives her a 4-carat ring, he is not legally able to become engaged,” said Eleanor Breitel Alter, who leads the matrimonial department and is a partner in Kasowitz, Benson Torres & Friedman in New York. “There are cases that say he cannot get the ring back because there was a legal impediment to the marriage at the time he gave it.”

Citing cases where estates seek to recover rings, she said: “Another complication occurs if the giver of the ring dies prior to the marriage and it is the death that prevents the marriage. Then the donee may keep the ring.”

Even after the marriage has taken place and the ring is unequivocally the property of the wife, questions may still arise. “Once the marriage occurs, the wife keeps it because the conditions were completed,” Ms. Alter said, “but if you upgrade the ring because one carat seems too puny, and get a 4-carat stone instead, that becomes marital property which can be divided in a divorce.”

It did not occur to █████ Sookram, 29, a finance manager with MTV, to keep the one-carat solitaire she had received from Michael O’Neil, her college boyfriend. Even though plans for their wedding in July 2005 were well in place — a banquet hall had been booked, dresses for five bridesmaids chosen, and a photographer hired — when they broke up.

“There was no discussion about the ring, and he never asked for it,” said Ms. Sookram, who gave it back. “Throughout our whole relationship, he was broke and had been saving up forever to buy it. I asked my mother if she wanted money from the ring because we lost a lot of money on the wedding, but it’s not about the money. It’s about rebuilding and moving on. I feel proud of the decision.”