

Put a Ring On It or Ask for It Back? Conditional Gifts in New York State

By Louisa DeRose and Jamie Caponera

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Intentionally or not, reality TV shows can raise interesting questions about relationships, marriage, and divorce. A recent episode of the popular show on Bravo, *Summer House* invited viewers to look at one aspect of New York law more closely: if a couple breaks up before getting married, who is entitled to keep the engagement ring?

Under New York law, it is well-settled that an engagement ring is considered a conditional gift, given in contemplation of marriage *Lowe v. Quinn*, 27 N.Y.2d 397, 400 (1971). Therefore, the law provides that the gift giver would be entitled to get the ring back upon the dissolution of the relationship. Once the couple does get married, however, the conditions of that gift will have been fulfilled. The ring then becomes the recipient's separate property, which he or she would be entitled to retain upon divorce, unless the couple's prenuptial agreement provides for something different.



While in this way the law generally protects the gift giver, this is not the default in every state. In *Luce v. Fleck*, the court engaged in an analysis as to whether the plaintiff and defendant were engaged at the time the gifts were made to determine if the diamond ring was given as an engagement ring in contemplation of the marriage.

The court ultimately concluded that it was, asserting that “[i]n New York, it is clear that an engagement ring is a conditional gift, and where that condition—i.e., the parties’

contemplated marriage, —is not fulfilled, the gift is revoked and the ring must be returned” *Luce v. Fleck*, 59 Misc.3d 1084, 1089-90 (Sup. Ct. Livingston Cnty. 2018).

Luce v. Fleck also makes an important distinction regarding fault for the breakup, noting that in New York, fault is “wholly irrelevant” to the right of the giver to recover the ring. If a couple intends to stay in New York the gift giver would generally be protected under the law, but the issue may arise in other states.

Florida, the other state at issue in the *Luce* case, provides that if the donor is at fault for breaking off the engagement without legal justification, the recipient is entitled to retain the ring.

New York has additional case law regarding premarital gifts, which provides further insight on the standards used to determine who retains certain property when a couple does not marry.

In *Hart v. Cappa*, a couple who never intended to marry split up. The plaintiff returned the ring without being asked to do so but sought a declaration that she could retain *other* gifts from the defendant which he had provided including expensive jewelry, while the defendant sought the return of such gifts. The defendant, who wanted to get the jewels back, claimed that it was not based in connection with a breach of a promise to marry, but an action for constructive trust or unjust enrichment. *Hart v. Cappa*, 2018 WL 1172595, at *9-10 (Sup. Ct. N.Y. Cnty. Mar. 6, 2018).

Ultimately, the court found that the defendant’s contention was unavailing because, “as

pointed out by plaintiff... a claim of unjust enrichment should be dismissed when unmarried parties, prior to the breakup of their relationship, provided gifts to or expended monies on each other.” *Id.*

The engagement ring was distinguished from the other gifts of jewelry because it was given to signal that the plaintiff was in a relationship. The plaintiff argued that unjust enrichment should be dismissed, stating: “where ‘giving and receiving’ of gifts between former unmarried lovers is based on love and affection, it ‘cannot be said that equity and good conscience cry out for fiscal adjustment.’” *Id.*, at *10 (citations omitted).

For couples concerned with the return of such property upon a breakup, these cases do present a unique question: given that most prenuptial agreements only become enforceable once the couple has gotten married, contracting for the return or retention of specific gifts like an engagement ring becomes more complicated. Some couples may also give a gift different from the traditional diamond ring, such as a necklace.

Further, if an engagement ring or engagement gift is given on a holiday, for example Christmas, Valentine’s Day, or the receiver’s birthday, the courts may look upon the giving of the engagement ring as a gift but not as a conditional gift.

In this scenario, the law does not necessarily require that the ring must be returned, but the court would likely look to factors that could determine the parties’ intent. For example, if it was Christmas, but the gift was a diamond

ring, the man got down on one knee in front of family and asked his beloved to marry him, it would probably still be understood as conditional. *Lewis v. Permut* included a claim for return of an engagement ring and other jewelry which were given as birthday or holiday gifts, and the court found that only the engagement ring needed to be returned upon the breaking off of the engagement. 66 Misc. 127, 128 (Civil Ct. Queens Cnty. 1971).

While *Lewis* involved a fault analysis, New York State no longer engages in such an analysis—the rule is now that “[w]hether [defendant] was at fault for the breakup of the engagement is wholly irrelevant to his right to recover possession of an engagement ring that he...gave to defendant in contemplation of marriage.” *Gagliardo v. Clemente*, 180 A.D.2d 551, 551 (1st Dept. 1992).

Given the different laws across state lines, and the additional considerations that the court may assess, a couple concerned with providing clarity around the ownership of an engagement ring or gift can find creative ways to solve for this issue, whether through a prenuptial agreement or other contract. However, given the conditional nature of the gift, if the couple wanted to contract around rights to the ring through a prenuptial agreement, this part of their agreement would remain unenforceable should the couple fail to marry, and the couple therefore must turn to case law to determine who has the right to the property.

One of the best ways to ensure that the gift is not conditional would be to consider it as a strict gift, which is often the separate property of a donee in a prenuptial agreement, and make that provision of the prenuptial agreement effective immediately. Whereas most of the provisions of a prenup are not effective until the date of marriage, except commonly for provisions regarding confidentiality, an engagement ring provision could also go into effect immediately, thereby becoming enforceable and providing the desired clarity for the couple. Alternatively, if the parties do not wish to enter a prenup, they could execute another written contract, which clearly states that the ring is a non-conditional gift.

In a recent interview, the cast member from *Summer House* reflected upon her experience, noting that there’s New York law and then there’s etiquette. That the ring giver may request the return of the engagement ring if the couple does not get married, even if he is the one to sabotage the relationship, can strike many people as poor form. However, when it comes down to it, the court does not rule on the basis of etiquette. By drafting a prenuptial or other agreement with a special provision for the engagement ring, a couple can allow themselves to have the final say.

Louisa DeRose is a partner at matrimonial and family law firm, Rower LLC. **Jamie Caponera** is an associate at the firm.