

Self-preservation when a spouse goes astray

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Tales of marital infidelity are a satang a dozen in Thai society, as witnessed in high-profile cases such as that of model Kara Polsit and a local businessman, or the headline-grabbing saga of university student Pemika Veerachatratsit and tutorial school owner Dr Prakitpao Tomchitchong.

Whether a sexual tryst is proven or not, the fact is that a lawfully wedded wife or *mia luang* should at least know her rights because both reputations and assets that need to be protected. You've probably lost a husband but don't rub salt into your wound by suffering further financial losses, right?

There are a number of laws covering disloyalty between spouses. According to the law, the legitimate wife can file for divorce from her husband when he honours and openly treats another woman as a wife. The wife can also file for a divorce if the husband is guilty of misconduct that causes her serious disgrace, damage to reputation or insult or hatred from others and the public.

Other cases include serious physical and/or mental abuse of the wife by the husband, or even cases in which the husband severely insults the wife's family. Divorce petitions can also apply in cases in which a spouse has been imprisoned for more than a year; the spouses live separately for more than three years; a spouse fails to provide proper care and support or causes serious trouble to the relationship; the spouse is declared insane for more than three years and lacks the ability to sustain the marriage, and many more cases.

All of the aforementioned cases apply equally to men and women, though it could be argued that in the vast majority of cases women will be the ones seeking to end the marriage.

When a divorce does take place, the spouse who has caused the damage to



In the headlines for all the wrong reasons

the marriage is required to make compensation for the damage done to the body, reputation or property of the other. If the termination of the marriage brings about loss of income or causes poverty, the spouse responsible for the trouble must be liable for compensation for the loss. This will be decided by the court according to individual circumstances, and can be ordered to be paid in a single amount or instalments.

However, these legal remedies apply only to couples whose marriages were legally recognised in the first place.

"The laws are not applicable to spouses who are not legitimately wedded or did not legally register their marriage, since they are not considered lawful spouses in the first place," says Thawat Damsard, a litigator with the Bangkok-based

international law firm Tilleke & Gibbins.

However, without filing for divorce, a wife can also sue a mistress for destroying a relationship and reputation and demand compensation.

Mr Thawat says there are no fixed rules for calculating compensation in such cases. Basically, the plaintiff should be able to justify the amount demanded, which should be considered reasonable for the damage caused.

A lot of troubled marriages and family problems involve financial disputes. In many cases, adultery can be both a symptom and a cause.

There have been a number of cases in which the guilty spouse endangered the financial health of a legal relationship by spending large sums on a lover, for gifts, property or other considerations.

Again, this doesn't mean that the lawfully wedded spouse can do nothing. The law is generous enough to allow the spouse to ask for a court order to forbid or limit the power of the offending spouse to manage assets including money.

However, the application of the law is limited assets considered as marital property or *sin somros*, and not personal properties or *sin suan tua* that a spouse held before the time of marriage.

The court can limit or prohibit errant spouses from managing marital assets when it has been shown that they could cause serious damage to the assets or fail to support the lawful spouses. IT can issue an order to temporarily protect the management of marital properties, or order the other spouse to manage the properties instead.

In any case, most of these disputes turn ugly in the end. One way to prevent everything from ending in tears is to consider a prenuptial agreement before the marriage even takes place.

Such agreements might work for Hollywood movie stars but Mr Thawat says they've never caught on here. The sense in Thai society, he believes, is that a prenuptial agreement implies a sense of mistrust at the outset, which could hardly be good for a relationship.