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===== Start of Answer #1 (1445 words) =====

California is a community property estate. There is a community presumption, where all assets acquired by the spouses during marriage are community property (CP). Property acquired by either spouse before marriage or during marriage by gift, inheritance, bequest are presumed to be separate property (SP). Property acquired by the spouses during marriage while domiciled in another state but that would have been CP if they were acquired in CA, are quasi-community property (QCP).

To determine the character of a property the court will trace back to the source of the funds used to acquire the property.

At divorce, all CP will be divided equally; unless otherwise agreed by the spouses or unless special rules require that distribution not be equal.

During marriage, spouses can change the character of the ownership of their property. They can change it from SP to CP, CP to SP, or from CP to CP. To do so, the spouses must do it in writing. In the writing they must state that a change in ownership is being made and the spouse whose interest is being adversely affected must manifest his consent.

Economic community ends when the spouses separate permanently with no intent to resume the marital relationship. The intent of spouse is sufficient to end to economic community.

1. Condo

At issue is whether the condo that Hal inherited is SP or CP, considering that he inherited but then it was held in joint tenancy by both spouses.

Property acquired by inheritance during the marriage is SP and at divorce it will

remain with the spouse who inherited it, unless other rules apply that require that the SP be treated as CP and be divided equally at divorce. Hal's uncle gave the property to him through inheritance. Thus, the condo was SP when he received it.

Presumption of CP

Issue is whether the court will presume that the condo went from SP to CP when Hal put the title on both names.

Transmutation

As explained above, spouses can change the ownership of their property. This is called transmutation (definition above).

Here, Hal transferred the condo's title from SP to CP when he put the title under both names. Thus, the court will presume that he intended that the condo be CP. Transmutation requires a writing. The title will most likely satisfy this requirement.

Because there was a transmutation, the condo will be treated as CP at divorce and thus, will be divided equally between Hal and Wanda.

On the other other hand, if the court finds that there was no transmutation or that the transmutation was not valid or that there was undue influence by Wanda, Hal will keep the property. Because the property increased in valued, the amount of increase will be divided equally as long as community labor was used to increase its value.

Defenses

- Presumption of undue influence when real property is involved

Issue is whether Wanda wrongfully influenced Hal to get him to put title to the condo under both names.

The court will presume that there was undue influence when one of the spouses obtained advantage over the other on a real property transaction.

Here, the property was SP at the beginning and it was valued at \$250,000. Wanda insisted that the property be put under both names. She clearly gained advantage by doing so.

Because she gained advantage over Hal by asking him to put the condo, which was his SP, the court will presume that Wanda used undue influence and thus, at divorce, Hal will keep the condo.

On the other hand the court could find that there was no UI under CA rules

- CA Statutory presumption of Undue influence (UI)

Issue is whether Wanda obtained joint tenancy of the condo through undue influence

UI is the physical or mental coercion exerted on a person that overrides the free will of the person and substitutes the desires of others for his.

The person claiming that there was UI must prove that there was susceptibility, active participation, access and unnatural result. The court will not presume that there was UI if the person receiving the property was the spouse and the person making the transfer was fully competent.

Nothing states that there was susceptibility. Wanda was Hal's spouse at the time of the transfer. The facts only mention that Wanda insisted Hal to transfer the condo, but the courts will find that mere insistence is not sufficient to find UI.

Thus, the condo is CP and will be divided equally.

2. Motorcycle

- Issue is whether the motorcycle is SP or CP

Spouses are jointly liable for debts incurred during marriage by either spouse.

\$10,000 of Hal's SP was used as downpayment and \$10,000 was borrowed from a lender. Thus, the motorcycle was at the moment of purchase 50% SP and 50% CP. Was 50% SP because the \$10,000 was received by inheritance and 50% CP because the loan was paid off Hal's and Wanda's joint account and earnings of the spouses is presumed to be CP.

Because Hal used the \$10,000 that he inherited from his uncle (SP) and the remaining \$10,000 was paid off from the joint account, the motorcycle is 50 SP and 50 CP. So, at divorce Hal will get \$15,000 and Wanda will get \$5,000.

3. Camper Van

- Issue is whether the camper van is SP or CP, considering that Wanda gave it to Hal as a gift but the money used was from their joint account, which was CP.

Earnings of the spouses during marriage is CP and thus everything bought with it will be CP and at divorce will be divided equally.

As mentioned above, spouses can change the ownership of properties, this is called transmutation (definition above).

The motorcycle was bought with CP and the facts state that the motorcycle was a

gift to Hal. The only writing mentioned in the facts is the title to the motorcycle, no other writing is mentioned. If there is no writing stating that the parties intended to change ownership of the property and there is no intent of the party adversely affected by the transmutation, the transmutation will not be valid.

* Exception to transmutation requirements

The writing will not be required if a spouse made a gift to the other spouse and the gift was an item of personal nature and was principally used by the spouse receiving the gift and the gift was not of substantial value.

The motorcycle was a gift. It was of personal nature because it was used by Hal to go fishing and nothing in the facts state that he shared the use with Wanda. The facts do not say what the financial situation of the spouses was.

Thus, it is most likely that the court will presume that Wanda intended the motorcycle to be SP, even though money from the joint account was used. The motorcycle will be given to Hal and Wanda will have no right on it.

4. A1 account

The issue is whether the money on the A1 account is SP or CP, considering that Wanda deposited some of her earnings there and did not tell Hal about it.

Earnings of the spouses is CP during marriage, and thus should be divided equally at divorce. If a spouse wants to avoid becoming liable for a spouse's debt during marriage she can do so by depositing her earnings in a separate deposit account and the debtor spouse must not have right to withdraw any money and must not commingle his funds with the other spouse in that account.

Hal did not have access to the account, he did not even know about it. Because

he did not know about it he could not have commingled his funds with Wanda's funds.

The court will most likely find that the money is Wanda's SP. Thus, the \$50,000 will go to her at divorce.

Overall conclusion

1. Condo: if the court finds that Hal intended the change the ownership of the condo from SP to CP, the condo and its increased value will be divided equally at divorce. But, if the court finds that there was no transmutation, the condo will be Hal's SP and the increased value will be divided equally.

2. Motorcycle: the court will find that the motorcycle is Hal's SP.

3. Camper van: the court will find that the van is 50% SP and 50% CP. Hal will receive \$15,000 and Wanda \$5,000

4. A1 account: the \$50,000 will most likely be Wanda's SP. Unless the court finds that she maliciously hid the money from Hal. In that case, the money will be CP and will be divided equally.

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