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1. Hank's will's validity

Attested will

A valid will is formed when the person writing the will has an intent to write the will, is in a sane mind and understands his properties and how he/she is distributing his/her properties and has disinterested witnesses to sign the will with the knowledge of signing the will.

Holographic will

A will does not necessarily have to be completely handwritten to be valid. A downloaded will is valid as far as the person has the intent as stated above and fills in the material details of the properties and signs the will, the will does not have to be dated.

Here, Hank (H) downloaded the form will and inserted his intent of providing his properties to Sis (S) when he dies. The will also states that he wants to provide all of his property and the other language of the will may not hamper the will. It is also stated that Hank was in State X when he wrote the will and State X does not recognize the two disinterested witness but three instead for the will to be valid. The will may not be valid in State X due to the number of witnesses attesting to the will

Choice of Law

Under choice of law rules, a will that is invalid in other state, but is valid in California and if the person who has written the invalid will is then domiciled in California when he dies, the will may be valid in California as per choice of law rules.

Here, it is stated that H in 2021 moved to California with Wendy (W) and died on the first day of his new job in California. Since he got a job in California, it can be safe to assume that H and W decided to move and be domicile in California for the near future. Thus, the will may not be valid in State X but since H died in California his will by choice of laws be valid in California.

2. Rights in Hank's estate

Community property

Under California laws, property or income acquired during the period of marriage is known as Community property CP. The period begins with the matrimony of two people and ends in divorce, separation or death. Any property or income acquired prior to marriage, as gift or is inherited is known as separate property SP. A property or income acquired in another state during the course of marriage which is not considered CP in that state but is considered CP in California when the parties are in California is known as Quasi Community Property QCP.

Intestate

When a person dies without a will, all his property is distributed intestate.

Under intestacy rules, the property is divided by the following:

CP or QCP- the surviving spouse gets an equal share of the property which is considered CP. Thus, a 100% of the property.

SP- SP is usually untouched property of the spouse and it not entitled to the other spouse upon divorce or separation. However, over death, under SP the surviving spouse may get 50% of the share of the property.

If the deceased spouse has left 1 relative other than surviving spouse, the spouse and relative take 1/2 and 1/2 share of the property.

If the deceased spouse has left 2 or more relative other than surviving spouse, the spouse takes 1/3 and relatives take 2/3 share of the property equally.

Wendy (W)

W married H in 2017 in State X. He had acquired 2 properties during the course of marriage- the land he inherited from his mother and income from his job as construction worker. Hank had opened a bank account in his own name.

W and H moved to California and H got a new job thus establishing that they intended to live in California. Which created a QCP between H and W.

It is unknown that H wanted created a bank account in his own name because he wanted to keep his money away from W but despite that W is entitled to his earnings that are now the QCP between them.

As a surviving spouse she is entitled to full \$100,000.

Yes, there was a will that stated all property go to S, but in California under QCP, the surviving spouse has right to 100% of QCP over a will. Thus, W will have 100% rights to H's wages.

Determining from the above statement of intestacy, if we are to assume, that since H wrote in his will that since he has no kids, he is distributing property to S, and since he died in an accident where he did not have the time to write another will, and if the court assumes that H only intended to give property to S as he was single and had no kids as per the will language but later he did get married and have kids, W is entitled to intestate SP and she will get 1/3 part of the inherited land.

However, if the court goes by the will and finds the will is valid and full, S takes the land in full.

Daughter (D)

Determining from the above statement of intestacy, if we are to assume, that since H wrote in his will that since he has no kids, he is distributing property to S, and since he died in an accident where he did not have the time to write another will, and if the court assumes that H only intended to give property to S as he was single and had no kids as per the will language but later he did get married and have kids, D is entitled to intestate SP and she will get 2/3 part of the inherited land.

However, if the court goes by the will and finds the will is valid and full, S takes the land in full.

D will not be entitled to wages of \$100,000 as they are QCP property.

Son (Son)

Omitted child

Under the theory of omitted child, if a child is born after the writing of the will or the deceased never knew of the existence of the child or had no knowledge he has a child, the child is entitled to the property under intestacy rules. Unless, the said child has been provided for from the outside or the parents of the said child have been compensated for the same.

Here, Son was born after the will was created and H as stated had no knowledge of the child. S has proved his parentage to H and thus, under intestacy rules as mentioned

above he may be entitled to the land on 2/3 portion.

Determining from the above statement of intestacy, if we are to assume, that since H wrote in his will that since he has no kids, he is distributing property to S, and since he died in an accident where he did not have the time to write another will, and if the court assumes that H only intended to give property to S as he was single and had no kids as per the will language but later he did get married and have kids, S is entitled to intestate SP and she will get 2/3 part of the inherited land.

S will not be entitled to wages of \$100,000 as they are QCP property.

However, if the court goes by the will and finds the will is valid and full, S takes the land in full.

S will not be entitled to wages of \$100,000 as they are QCP property.

Sis (S)

According to the will, S should get all the properties of H as the will is valid in California.

However, W and her children have right based on intestate SP based on the H's marriage to W. S can share the rights to SP with W and her children based on will but she wont have any right on the wages of \$100,000 as W shall take it 100% based on CP. W can share the land under intestacy laws although it is also unknown of S's relation to H. Determining from the above statement of intestacy, if we are to assume, that since H wrote in his will that since he has no kids, he is distributing property to S, and since he died in an accident where he did not have the time to write another will, and if the court assumes that H only intended to give property to S as he was single and had no kids as per the will language but later he did get married and have kids. Then S may not have any rights in the land.

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END OF EXAM