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California is a community property state. All properties acquired before or after the marriage are presumed to be separate property (SP). Also, any properties which are gifts or inheritance, are presumed to be SP. On the other hand, all properties acquired by either spouse during the marriage are presumed to be community properties (CP). Marital community begins at the marriage and it ends at their divorce or their complete separation. At divorce, SP belongs to the spouse originally had, and CP shall be split 50% each. Transmutation occurs when characters of properties changes, such as SP to CP or CP to SP. Transmutation requires in writing, oral transmutation is no longer valid.

Marital Community Property

Henry (H) and Wendy (W) begun in 2012 because here, H and W married in California in 2012. California is a community property state. Thus, their marital community started in 2012.

Marital community ends when their are separated and not intend to keep marriage; they do not have to move out or legally divorce. Here, W told H the marriage was over and stop sending money. And, she did not return to the home. Thus, their marital community property ends at the time she decided to end the marriage.

The House

All properties acquired during the marriage is presumed to be CP; however, there is exception. The property received as a gift, it is presumed to be SP. Here, W's aunt, who owned a house free and clear of any mortgage, gave it to W. W did not pay for anything. Her aunt gave her the house without any mortgages. Therefore, the house is considered as W's SP.

The title of the house and Transmutation

W argues that W added H on the title document and they lived together in the house; thus, H was entitled to the half of the house. H also can argue that the title in writing was showing the transmutation, which requires in writing when change the character of SP to CP. On the other hand, W may argue, the house was originally given to W from her aunt as a gift, and the shared title does not change the characteristics of the house from SP to CP. The court might see this is transmutation, but there is another theory the court to consider.

Lukas

When title might rebut the assumption of the characteristics of the property, which is jointly titled. When a couple divorce, it splits half and half; at the death of one of spouse, the surviving spouse takes all. Here, W and H are still alive when they decided to split. Based

on the Marriage of Lukas, the property (the house) titled under W and H, the house will be split 50% each.

Accordingly, W and H both have the right to receive 50% of the house.

The Bank Loan.

Equal management:

The married couple have the equal management power financially. This means one of spouse may buy or apply loan without letting another spouse know. Here, H applied the loan without letting W knows. H has right to apply a bank loan and any debts occurs during the marriage is presumed to be CP.

However, W seems like involving wrongdoing, Forgery, which is a criminal activity. When one of the spouse involves criminal activities, another spouse is not liable. (the creditor may be reach CP). Here, H forged W's signature on the loan documents without her knowledge; moreover, H was using the house as collateral without W's knowledge. W might argue that she did not approve for him to have the bank loan, she did not sign any document, and she did know anything about the loan.

Breached fiduciary duty.

Husband and wife owe each other the highest fiduciary duty, being honest, trustful, and disclose financial situation. Here, H received the loan without her knowledge and forged her signature. Thus, H breached his fiduciary duty owes to W. When one breached the fiduciary duty, the court may decide the entire loan to the breaching party, W.

Accordingly, H committed a criminal activity and not faithful to W; the court most likely decide H is liable for the entire amount of the loan.

Necessity for life

Even though the husband and wife are separated, before the proper divorce, another spouse is liable for the necessity of the life of the another partner. Here, the loan is not for necessity of life, because it is not food, housing (they have a house to live), or medical emergency. Therefore, W does not have to pay the loan.

The Auto Repair Garage.

Joint Tenancy

Joint Tenancy must have the unity of four, time, interest, possession, and title. Here, H purchased the auto repair garage with the loan funds, and titled to the auto repair garage was taken in H and W's names in Joint Tenancy. It seems valid Joint tenancy and it is presumed to be CP.

All property that acquired during the marriage by labor is presumed to be CP, H has a job as an auto mechanic; However, here, W has no knowledge of this Joint Tenancy property. As mentioned above, H received the bank loan through committing Forgery and breached fiduciary duty owes to W. It seem like H added W's name because H wanted W to be responsible for the loan. H may not have a good faith.

Therefore, the court may decide the garage is CP and split 50% each between W and H, but the creditor may take the property if H cannot pay off the debts.

Wendy's investments

All properties that are acquired by labor after the formal separation is presumed to be SP. Here, it is after the separation because W told H that the marriage was over before W started independent investments; it is acquired by labor because W was singing with a local band, and the was was profitable, and W was making money (enough money to send some to Henry).

Although H might argue that they were still legally married and H did not proceed to get formal divorce, and W filed for dissolution of marriage after she started investments; thus, W's investments account is CP; however, this argument is not persuasive because marital community property ends at the separation as one of spouse decided not getting back to marriage. Here, W decided not coming back to home, and W decided to the marriage was over before she started the investments. Moreover, the account is called Independent investments, although the name does not decide the characteristics (CP or SP), here, it seems like W wanted to have own account.

Therefore, the court is most likely award the 100% of the investments to W.

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