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===== Start of Answer #1 (1318 words) =====

California is a community property state. All property acquired during the course of marriage is presumed community property (CP). All property acquired before marriage and after the date of separate is presumed separate property (SP). All property acquired by inheritance, gift or bequest is separate property of the receiving spouse.

Hal (H) v. Wendy (W)

Here, H and W are California residents and married in 2008. H has filed for dissolution and thus, California community property will govern H and W's rights and liabilities for the (a) condo, (b) motorcycle, (c) camper van and (d) A1 Bank account.

A. Condo

H inherited the condo in 2010 from his uncle. W insisted for H to transfer title to the condo into joint tenancy with her to avoid probate. Here, the condo was inherited by H during the course of marriage and any inheritance is separate property. Here, H will argue that the condo should be awarded to him as SP at dissolution as he inherited the property from his uncle. Additionally, H will argue that there was no intention for the parties to take joint title to the condo as W only insisted on transferring title to avoid probate.

W, on the other hand, will argue that the since there was a transfer of title to joint tenancy, both W and H have a community interest in the property. Additionally, taking joint title on property is presumptively CP. W may contend that the condo increased in value during the marriage and she should be awarded a portion of

the increase at dissolution. However, there are no facts to show W made any contributions or improvements towards the condo.

Transmutation

A property's character may change from CP to SP or SP to CP. Prior to 1985, an oral agreement was valid for a transmutation. After 1985, a transmutation is required to be in writing, stating the change in character, and signed by the party whose interest is adversely affected. The parties have a pending dissolution in 2016 and thus, a transmutation in writing will be required. W may argue that there is a writing as transferring title most likely will require a writing and filed with the county recorder's office. However, there is no writing or agreement between the parties to demonstrate an intent of change in character.

Conclusion

H's argument will prevail in this case. Although the title of the property has been transferred to joint tenancy, the parties' only intention of transferring the title was to avoid probate. At dissolution, the condo will be awarded to H as his SP.

B. Motorcycle

H purchased a motorcycle around 2010 after he inherited \$10,000 from his uncle. The motorcycle cost \$20,000 and H used \$10,000 he inherited from his uncle as a downpayment and borrowed \$10,000 from a Lender. When Lender gave H the loan he relied on H's good credit.

In dividing the marital community at dissolution, H will argue that the motorcycle should be awarded to him as his SP. H will state the reasons that he used his inheritance for the down payment, obtained a loan from a Lender who only looked at his good credit and lastly, he took title to the motorcycle in his name alone. The \$10,000 he used is SP as he inherited that from his uncle. When determining the loan, we look to see the intent of the Lender and what they used

in providing the loan. Here, the Lender relied only on H's good credit when making the consideration. Moreover, H will state that since he took title in his name alone it demonstrates his intent of keeping the motorcycle as his SP.

Tracing

Tracing is used to track the source of funds in acquiring the property.

Conversely, W will argue that title is only a presumption that can be rebutted because they can trace how H paid the \$10,000 loan he obtained from the bank. Tracing will demonstrate that H paid the \$10,000 loan from the parties' joint bank account during marriage. Here, H and W opened a joint bank account after marriage and they deposited their earnings into the account. The bank account the parties share is CP, unless the parties commingled their own SP with the account but there is no indication here from the facts. Additionally, there was no agreement between the parties for that the payments of the loan were a gift to H. Hence, W will argue that the motorcycle should be awarded as CP at dissolution.

Conclusion

The motorcycle was acquired from both SP and CP funds. At dissolution, H should be awarded the motorcycle as his SP but the community should be reimbursed for the \$10,000 loan that was paid off from the motorcycle.

C. Camper van

W took H on his 40th birthday and bought him a camper van for \$20,000. The money used was paid out of the parties' joint bank account and titled in H's name.

H will argue that the camper van should be awarded as his SP at dissolution because W gave it to him as a birthday gift. Additionally, he took title in his name alone and used the van for his use of summer fishing trips with his friends.

On the other hand, W will argue that the van should be awarded as the parties' CP. First, W will argue that the \$20,000 was paid out of their joint bank account which is CP. Second, W will contend that title is just a presumption and there is no transmutation agreement here.

Transmutation

See above. An exception to the transmutation agreement is when the gift is of insubstantial value in consideration of the parties' financial circumstances.

Here, the van was \$20,000 which is not a small amount and likely, the exception to transmutation will not apply. Additionally, there is no agreement in writing to the parties that W was gifting the van to H as his SP. H may raise the issue of title but that can be rebutted by tracing the source of funds used in purchasing the van.

Conclusion

In absence of a writing to show a change in character, the Court will award the van as H and W's CP.

D. A1 Bank account

During marriage, W opened an individual account in her name without telling H. Although the parties shared a joint account in which they deposited their earnings, W had deposited some of her earnings into the individual account.

The parties' earnings during marriage is CP. W will argue that her A1 Bank account should be her SP as she opened the account in her name alone. Although W has opened her own bank account, the funds she has deposited is considered CP as the money was from her earnings during the course of their marriage. Thus, title is a presumption that can be rebutted by tracing.

H will argue that by tracing the funds deposited into the A1 account will demonstrate that it was from W's earnings during marriage and thus, should be CP. Additionally, H will argue that W breached her fiduciary duty as W kept the individual account a secret.

Fiduciary Duty

Each party owes a duty of fiduciary duty to the other spouse of the highest duty of good faith and fair dealing.

H will argue that W has kept the account a secret and he did not discover the account until the final hearing on dissolution. W, as H's spouse, should have fully and fairly disclosed her earnings to W rather than keeping the account hidden. However, the Court may find opening the account as extremely negligent and reckless and may award the account according to the interests of justice. However, it is likely the Court will simply award the account as the parties' CP as the funds were from W's earnings during marriage.

Conclusion

The Court will award the A1 Bank account as the parties' CP.

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