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California is a Community Property ("CP") State

CA is a CP, all property, assets, and salary obtained during marriage are presumed to be CP. All property obtained before marriage and after the date of separation is considered that spouses separate property ("SP"). Parties share an equal right in all CP. All SP property is considered the sp of the other party, subject to certain exceptions, such as tracing and the exuastion method. A spouse can convey his half of the community property share. Spouses are entitled to all, 1/2 of SP. If it is silent they can get all of the SP unless there is a child where she would split half theSP with the child.

Here, H and W were married in a non-community property state for the first 15 years, and in california for 5 years. Since they have been in Ca for 5 years they are subject to CA CP law. An argument can be made that they were only married for 5 years, but that is not relevant for the purposes of husbands estate.

Will formalities

Wills in CA require that the grantor have testamatory capacity, include language of conveyance, be signed and date by the grantor, and signed and date by two witnesses to be valid. Testamatory capacity requires that the grantor know the extent of his estate, and knowledge of whom he is conveying the estate. Witness signatures are not required to be signed on the same date as the will, as long as both parties were present at the time H signed his will.

Here, the will was signed by H on and the first witness on 06/01/18, and the second witness on 06/03/18, thus the witness requirement is satisfied. Even if the witnesses had an interest the court would disinterest them but the will would remain valid. The will also includes langauge of conveyance of his CP to W. Specifically, his CP share to W, but ommits and SP. The facts also state H had muental capacity throught his life, thus, the requirement for testamatory capacity is met. Therefore, the will is valid.

intestate sucesion - susbtantial compliance doctrine

When there is no valid will, an estate will fall to intestate succession, first to spouses,

children, siblings, parents, aunts uncles, extended relatives then ultimately the state. Intestate succession is typically disfavored if there is will, and will enforce the will if the majority of the will formalities have been complied with. Extrinsic evidence is typically disfavored for interpreting wills for purposes of public policy, to avoid over litigation of each will, as wills are intended to be free standing unless they explicitly integrate other documents/attachments, but that attachments must be explicitly mentioned, and include the number of pages which are incorporated within the will. In a will that includes an 1 page excel sheet listing personal properties.

Here, there is a will absent any defect it remains valid.

Codicil

a codicil can be used to amend a will, as long as it complies with the will formalities. A codicil can also be holographic if meets the below requirements for a holographic will.

Here, the undated pre printed will form failed to meet all the requirements for a codicil. The codicil failed to include dates, and witnesses.

Holographic will

In ca, a holographic will can be enforced if the following requirements are met: 1) the will includes language of conveyance of property to a particular person; 2) the will includes the signature and date of the grantor; and 3) the will be in the grantor's handwriting. a holographic need not be formal and can be written on anything including a napkin.

Here, the the undated pre print had printing at the top, but still includes handwriting. IT also includes language of conveyance of "all separate property and 25% of his community property goes to his son. Thus the form could be considered a holographic will. but the issue becomes an issue of timing. Granted that there is already a valid will, under the doctrine of substantial compliance the court would likely not enforce the holographic will and instead use the aforementioned will since it complies with all the formalities.

Omitted spouse omitted child

if spouses or children are omitted from a will, they can opt for their elective share. Unless, the will states that they are explicitly excluded from the will. Spouses are still entitled to their elective share.

Here, in the only valid will S is omitted and therefore can opt for his elective share of 1/2 of the sp. Also neither child or spouse was explicitly omitted in the will. Here since sp or quasi cp was not explicitly stated the children and spouses can opt for their elective share of the sp, 1/2 or 1/3.

General Conveyances' - Mother Hubbard Clauses

ca courts typically do not enforce general conveyances, that do not list each asset.

Here, the possible holographic codicil, states all of my sp to my son S. This could be too broad to enforce as it would include generally all separate property. Thus even if the will was found valid it could be considered under the mother Hubbard clauses of general conveyances are unenforceable.

W

Wife's is entitled to her community share of the 50k community property. Since the only valid will states wif will get all cp she will likely be entitled to all of the community property, so Wife would also get H's 50k cp share, for a total of 100k cp. Wife would get either all or of husband sp of 100k. as stated above If S opts for his elective share, as an omitted child, wife would get half of the community property.

Wife would also be entitled to at least half of the California land worth 100k. H purchases this land while in state X but, it is still considered CP since it is purchased within the 5 years they lived in California. If it was longer than 5 years the argument could be made that it is not cp. the fact that he gave it to him and his daughter does not matter. He cannot convey land to him and his daughter as it is a community property asset, it is still cp to be split equally by the parties. he purchased the land while he was still earning a community salary thus his funds are still community funds and those community funds can be traced back to his earnings thus the house is CP that cannot be given to daughter. Wife still has her cp right to it and would get it all under the will. therefore wife gets her CP, H's 50k cp, the 100k cp land, and the 100k sp. Unless the children opt for an elective share of the sp as stated below

S

S could get 1/2 or a 1/3 of the 100k sp funds. he would get 1/2 if D does not opt for her elective share, and 1/3 if she does. he gets none of the cp as the codicil is unenforceable.

D

Deep gets 1/2 or a 1/3 of the 100k sp funds. she would get 1/2 if S does not opt for his elective share, and would get a third if she does. Daughter doesn't get any of the 100k from land as it was purchased with community property funds and is fairly traceable. Even if the funds were considered separate the parties were living in CA at that time 2017 so it is subject to ca cp rules.

on the other hand Funds obtained prior to the 2017 could be considered sp, and could be used to purchase sp, as long as it is in writing. in this case Wife would only get half of land, and D would get the other half. They could also do Moore Marsden calculation for half of the property at the time husband's death.

Question #2 Final Word Count = 1317

END OF EXAM