2)

What rights, if any, do Wilma and Sis have in the:

California Law

California law is applicable to all matters governing community property because California is a community property state.

Opening Presumption

California is a community property state and all assets of between a married couple within the state of California are considered community property. All assets acquired before marriage, after divorce, through devise, descent, or inheritance are considered separate property (SP). All assets acquired throughout the course of marriage through earnings, stocks, pensions, or gifts of insignificant value are considered community property (CP). The disposition of a asset at the time of divorce or death is decided by the source of the asset and if any actions were taken to change the nature of the assets from SP to CP or CP to SP.

Marital Economic Community (MEC)

The marital economic community begins when there is a valid marriage between two individuals. Whereas, the marital economic community ends when there is a valid agreement to end the marriage, death of one spouse, or actions coupled with the intent to not revive the marriage.

Here, the MEC between Harry and Wilma began in 2016 because that is when they were married in State X. The MEC between Harry and Wilma ended in 2025 because that is when Harry unexpectedly died in an accident in California.

Thus, the MEC started in 2016 and ended in 2025.

Valid Will

A will is valid in California if: (1) it is a signed writing, (2) there is present testamentary intent to transfer assets, (3) there is no undue influence, (3) it is signed and witnesses by two disinterested witnesses, (4) the disinterested witnesses must understand that they are witnessing and signing a will, and (5) a clear indication of what assets are to go to whom.

Here, because Harry executed the will in State X which is not a community property state or California, these principles will not apply to determine if the will was executed in accordance with California law or if it is valid.

Thus, the will was executed outside of California and California law will not determine if it was properly executed.

Out-of-State Will

An out-of-state will is valid in California if it was executed properly and in accordance with the state law's in which it was executed in.

Here, the out-of-state is valid because Harry executed the will in State X and it was considered validly completed in State X.

Thus, the State X will is valid.

a. California House?

Source

All assets acquired before marriage, after divorce, through devise, descent, or inheritance are considered separate property (SP). All assets acquired throughout the course of marriage through earnings, stocks, pensions, or gifts of insignificant value are considered community property (CP).

Here, the California house is considered to be CP because Harry and Wilma purchased the house together through their combined earnings throughout the course of their marriage.

Thus, the source of the house is traced back to CP assets.

Action

The disposition of a asset at the time of divorce or death are decided by the source of the asset and if any actions were taken to change the nature of the assets from SP to CP or CP to SP.

Change in Asset Nature: Separate Named Property

If one spouse attempts to change the nature of property by separately applying their name to the property, it will create no difference if the source was still community property.

Here, Wilma will argue that she is the only one that should have ownership rights in the house in California because the proceeds from the sale of the State X house were used to purchase it and the house was in her name alone. However, this argument will likely not stand because it does not matter if Wilma was the only named spouse on the State X house as this does not change the nature of the property to SP. Furthermore, because Harry and Wilma's combined earnings were used to purchase the house in State X it will be considered CP.

Thus, Wilma holding title alone in the State X house does not change the nature of the house.

Anti-Lucas

The Anti-Lucas statute applies to jointly titled property held by spouses and before 1987 there was a presumption that upon divorce or separation a spouse is entitled to reimbursement if their assets were used to purchase the property, no writing was required then. After 1987, there must be a valid writing indicating that a spouse is entitled to reimbursement.

Here, the Anti-Lucas statute will not apply to Wilma because her and Harry did not use Wilma's earnings

alone to purchase the California house. In fact, Wilma and Harry used the earnings received from the sale of the State X house which was purchased with their combined earnings throughout the course of marriage to purchase the house.

Thus, the Anti-Lucas statute is not applicable and Wilma will not be entitled to reimbursement.

Jointly Titled Property with Right of Survivorship

Jointly titled property with right of survivorship is applicable between couples when there is: 1) joint title, 2) the same instrument was used to distribute the property, 3) equal interest, and 4) equal possession rights. Upon the death of another spouse, the other spouse inherits the interest and has full ownership over the property.

Here, there is a valid ownership right of the California house because Harry and Wilma took joint title in the property. Furthermore, there is a valid ownership right because purchased the house together which indicates it was entered into through the use of one instrument. Finally, they shared equal interest and equal possession rights because the interest of each spouse was never given to anyone else during the course of their marriage and they lived in the home together until Harry's death. Sis might try to argue that Harry's will gives her an interest in the property because it is a valid will that indicates that she is left with everything that belonged to Harry at death. However, this argument will not stand because the will was executed before Harry was married to Wilma and never explicitly mentioned that she is entitled to any rights in the their jointly titled property. Finally, this argument will also not stand because Harry never attempted to amend the will through a codicil to indicate that Wilma should be entitled to some rights.

Thus, the Wilma gets full ownership of the joint titled property.

Disposition

For these reasons, Wilma will get full ownership rights of the California house valued at $600,000 and Sis will not have any rights to it.

b. State X farm?

Source

See rule above.

Here, the State X Farm is considered to be CP because Harry and Wilma purchased the farm together through their combined earnings throughout the course of their marriage.

Thus, the source of the State X Farm is traced back to CP assets.

Action

See rule above.

Quasi Community Property

Quasi community property is property purchased or acquired in another state that is considered valid community property in California is the couple is now living together in California.

Here, the State X Farm is quasi community property because it was purchased in State X. The State X Farm is valid community property because Harry and Wilma moved to California in 2021, shortly after purchasing the farm, and after Harry's death they were still living within the state without ever having the intent or taking actions to move back to State X.

Thus, the State X Farm is considered community property.

Change in Asset Nature: Separate Named Property

If one spouse attempts to change the nature of property by separately applying their name to the property, it will create no difference if the source was still community property.

Here, Wilma will argue that she is the only one that should have ownership rights in the house in the State X House because it is considered community property. Whereas, Sis will argue that because the State X Farm was held in Harry's name alone it is not considered community property. However, this argument will likely not stand because it does not matter if Harry was the only named spouse on the State X Farm as this does not change the nature of the property to SP. Furthermore, because Harry and Wilma's combined earnings were used to purchase the house in State X Farm it will be considered CP.

Thus, Harry holding title alone in the State X Farm does not change the nature of the house.

Intervivos Distribution

A will is valid upon the death of an individual and determines what assets are assigned to a particular individual. Any joint-held property must be distributed equally upon those individuals named in the will and those not named.

Here, Sis will argue that she is entitled to half of the State X Farm because it was not jointly held by Wilma unlike the California house. Furthermore, Sis will argue that she is entitled to half of the State X Farm because with Harry's unexpected death the will is now valid and states that she is entitled to everything. However, Wilma will try and counter argue that the will is ambiguous because there is no indication of what Harry meant when he stated "everything." This argument will likely not stand because the probate court will read will understand that Harry's intent was to leave Sis with what he had upon death that was not already jointly held with Wilma. Sis might attempt to counter argue this but the probate court will indicate that because Harry executed this will before marrying Wilma there was no indication to he wanted Wilma to not have anything. Furthermore, because the property was not jointly titled by jointly held as CP and the will is valid, Wilma must share the property with Sis.

Thus, the will is now valid and Sis will be entitled to half of the State X Farm.

Disposition

For these reasons, Wilma and Sis will have equal rights in the State X Farm and the value of it.

c. $10,000 savings account?

Source

See rule above.

Here, the source of the $10,000 savings account is considered SP because it is inheritance from Harry's aunt.

Thus, $10,000 in the savings account is SP.

Action

See rule above.

Separate Banking Accounts

Any banking accounts that are separately held and named throughout the course of marriage are still considered community property if they deposit the earnings of the spouse.

Here, the separate banking account to which Harry deposited the $10,000 from his aunt is considered community property because having a separate banking account did not change the nature of the account. However, Sis will argue that because the account did not deposit Harry's earnings but his inheritance from his aunt, it is considered SP. This argument will likely stand because the nature of money in the banking account.

Transmutation

In community property, there is a rebuttable presumption if one spouse wants to change the nature of SP to CP or CP to SP there there must be a valid writing state their intent to do so that is signed by both parties after they have been reasonably informed.

Here, Wilma will attempt to rebut the fact that the saving account was SP because it holds money that was given to Harry throughout the course of marriage. This argument will not stand because there the money was given through inheritance which is considered SP. Finally, Wilma does not have any valid writing to indicate that Harry desired to change the nature of the banking account.

Thus, Wilma cannot rebut the presumption that Harry changed the nature of the banking account.

Intervivos Distribution

See rule above.

Here, Sis will be entitled to half of the $10,000 because the probate court will read Harry's will to indicate that he intended to leave half of his inheritance to Sis.

Thus, Sis will be entitled to half of the $10,000.

Disposition

For these reasons, Sis will be entitled to half of the $10,000 as well as Wilma because upon divorce the surviving spouse receives half of SP.

END OF EXAM