2)

General Presumption

A property that acquired before or after marriage considered as separate property (SP). A property that acquired as a gift, bequest, devise or inheritance during marriage is also considered as SP.

A property, earnings acquired during a valid marriage is considered to be community property (CP). A property that acquired outside of community property state during a valid marriage will be considered as if it was acquired in community property state and will be considered as Quasi Community Property (QCP).

Will Requirements

A valid will in other state will be considered as valid in California as well.

Here, since 2014 State X will was valid. It will be considered as valid will under CA.

Thus, will is valid.

2014 Will's Effect

Upon testators death a spouse gets all CP and half of SP of deceased spouse and residua of estate will be distributed as it cited in a will to the beneficiary Sis. Since H did not execute any subsequent instrument Wilma is omitted.

Omitted Spouse

A spouse is omitted if it was not included in a will that was drafted before the valid marriage, unless excluded intentionally, received portion separately. The spouses who are omitted will receive their share according to community property standards.

Here, Wilma (W) was omitted because the will was drafted 2 years before their marriage. There is no suggestion that Harry (H) intentionally omitted her because they were married in 2016, 2 years after.

Thus, W will receive her share in CP standards.

State X House

Characterization

The house was bought in State X which is not a CP state, however it was sold in CP state. Since the house was acquired by using W and H's combined earnings and sold in CA it will be considered as QCP.

Title

Title on one spouse name alone does not precludes other spouse unless it was intended to be a gift to other spouses SP.

Here, although H held the house on his name alone it will not change the character of the QCP to his SP unless there is a transmutation. Since no facts state that it was intended to be H's SP the house will be QCP.

Thus, State X house is QCP

a.

California House

Characterization

Here, California house was acquired during their valid marriage in California thus it is considered as CP.

Title

See rule above.

Here, California house is titled for both of them. Here Sis will argue that the California house was bought with money of State X, which was titled on W's name alone and according to H's will, she should receive the house.

Tracing

Courts will trace the funds to rebut the presumption.

Here, W will argue that since the house was bought with QCP earnings and was sold in CP state, it will be CP. Moreover, as discussed above it is established that State X house was QCP. Since the California house was bought with money from proceeds from the sale of State X house and titled on both of their names it will be CP.

Thus, The house is CP.

Distribution

As established above, H did not die testate because he devised all his property to (S) Sis. Since house was established that to be community property W will get her 1/2 share and since she was omitted in the will she will get the other half of the house.

Thus, S will receive nothing.

b.

State X Farm

Characterization

Here, similarly with state X house, the farm will be QCP because the house was acquired by using W and H's combined earnings.

Thus, QCP.

Title

See rule above.

Here, although the house was titled in H's name alone, it will not change the character of the property because as established above it will stay as QCP.

Distribution

QCP will be considered as CP in the event of the death of one spouse. Since H died in CA and the State X farm will be considered as QCP, the wife will receive his 1/2 share and her 1/2 QCP share.

Thus, sis will get nothing.

c. $10,000 Saving account

Characterization and Title

Here, although it is not given whether the saving account was opened after or before marriage to Wilma, it will be his SP if it was opened before and CP or QCP if it was opened in after marriage. However, since the money was received as a inheritance from Harry's aunt it will be considered as his SP regardless the account's characterization.

Distribution

Here, W will argue that the money will be distributed to 1/2 to W and rest 1/2 to Sis because the spouse gets the half of deceased spouse SP. However, Sis will argue that since it was devised in H's will as 'everything' she should receive the $10000 entirely because it is H's SP. She might be right because although W was omitted in the will she received other properties such as California house and the State X farm.

Thus, if the court finds for the Sis, she will get entire $10000.

END OF EXAM