MGA ARI-ARIAN ng MAG-ASAWA

Kapag ang taong namatay ay may asawa, importanteng malaman kung anong “PROPERTY RELATIONSHIP” ang meron sila.

That way, you would be able to "identify":

-anong “EXCLUSIVE PROPERTY” ni husband

-anong “EXCLUSIVE PROPERTY” ni wife

-at anong “COMMON PROPERTY” nilang mag-asawa

\*“Identification” depends on what “PROPERTY RELATIONSHIP” the spouses have.

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Q: Ano ba ang mga “PROPERTY RELATIONSHIP”?

Ans:

1. Complete separation of property

2. Absolute community of property

3. Conjugal partnership of gains

4. Any other regime

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#PART1

Q: How do you know the “PROPERTY RELATIONSHIP”?

Ans: Look at the contract.

What contract?

Pre-nuptial agreement (“MARRIAGE SETTLEMENT” or “Ante-nuptial agreement”)

Ang kontratang yan ay pag-aagreehan ng babae at lalaki bago sila ikasal.

At pag meron niyan, NAKAPAMILI sila ng “Property Relationship”. The choice belongs to the couple. So bago sila magpakasal, mag-agree sila if “THEY INTEND TO HAVE ONE”.

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Q: Can the couple agree AFTER marriage?

Ans: NO

That is VOID(without effect, walang bisa). It has to be signed before the marriage. They have to agree before the marriage.

Take note:

Pag kinasal ka ng may “Marriage Settlement”, yan ay naka-annotate sa Marriage Contact niyo.

Sa upper righthand corner ng marriage contract, makikita dun kung may “marriage settlement” kayo. Kung meron, naka-check yun dun.

Naka-attached din mismo yung “marriage settlement” or “pre-nuptial agreement” to form an integral part of your marriage contract.

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Marriage contract is a public document. Anyone can go to the PSO (Philippine Statistics Office) and request it.

Sa mga BABAE, pag may nag-propose sa inyo ng marriage, wag ka agad matuwa. Punta ka muna sa PSO at mag-request ka ng “Certificate of No Marriage”. Baka kasi kasal na si lalaki at “BIGAMY” na pala yan (Bigamy is the “crime” of marrying one person while you are still legally married to another).

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For some(like non-muslim), hindi pwede magpakasal ng maraming beses.. Subsequent marriage is VOID.

Contracting a subsequent marriage while you are validly married is a crime called Bigamy.

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“BIGAMY” is a “public crime”(not a private crime). Pag na-file na yung kaso sa korte, kahit uurong pa yung babae, hindi na pwede. The State can prosecute you even the one who filed the case is retracting already.

Why? Because it is a public crime.

Pag criminal case, “People of the Philippines“ vs ”The accused”. Meaning, you commited it against the State and against the people (not against that person only)

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#PART2

Q: Kung walang “MARRIAGE SETTLEMENT”, anong gagawin?

Ans: Tingnan yung date ng kasal. Yung mag-asawang ikinasal ng August 3, 1988 (or after August 3, 1988) ay system of “ABSOLUTE COMMUNITY”.

Yan kasi ang sinasabi ng “Family Code”. At ang Family Code ay nag-took effect exactly August 3, 1988.

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Q. Paano kung ang mag-asawa ay nagpakasal ng August 2, 1988 (or bago mag-August 2, 1988)?

Ans: Civil Code ang batas na pagbabasihan. At ang sinasabi ng Civil Code ay “CONJUGAL PARTNERSHIP OF GAINS”

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NOTE: ("COMPLETE SEPARATION OF PROPERTY”)

\*Pag may “MARRIAGE SETTLEMENT”, doon pwede ang “COMPLETE SEPARATION OF PROPERTY”.

\*Pero pag walang “MARRIAGE SETTLEMENT”, wala ding “COMPLETE SEPARATION OF PROPERTY”.

~it’s either “ABSOLUTE COMMUNITY OF PROPERTY” or “CONJUGAL PARTNERSHIP OF GAINS” depende sa “DATE” kung kailan ikinasal ang couple.

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Q: Mag-asawang ikinasal ngayong taong 2017. Anong “PROPERTY RELATIONSHIP?

Ans.1: Tingnan muna ang kontrata.

-kung “COMPLETE SEPARATION OF PROPERTY”, that’s it.

-kung “ABSOLUTE COMMUNITY OF PROPERTY”, that’s it.

-kung “CONJUGAL PARTNERSHIP OF GAINS”, that’s it.

Ans.2: Kung walang kontrata(Marriage Settlement), then “ABSOLUTE COMMUNITY OF PROPERTY” dahil ikinasal “on or after August 3, 1988”

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#PART3

(COMPLETE SEPARATION OF PROPERTY)

(ABSOLUTE COMMUNITY OF PROPERTY)

(CONJUGAL PARTNERSHIP OF GAINS)

A. COMPLETE SEPARATION OF PROPERTY

Q: Anong meron sa SEPARATION OF PROPERTY?

Ans:

-What the HUSBAND brings are his own EXCLUSIVE.

-What the WIFE brings are her own EXCLUSIVE.

-What THEY may acquired during marriage are their own EXCLUSIVE.

In other words, there is no common property under COMPLETE SEPARATION OF PROPERTY.

-In Tagalog, “KANYA-KANYA”.

Q. Paano yung gastos?

Ans: Even or Hati. Pwede ring pag-usapan kung anong gastusin ang babayaran lang ni HUSBAND or ni WIFE (kahit di even or di pantay).

Example, electricity kay HUSBAND, tubig kay WIFE, hati saTuition fee si Husband and Wife, etc)

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B. ABSOLUTE COMMUNITY OF PROPERTY

General rule: All properties are COMMON.

Be it "those brought to marriage" (properties BAGO IKASAL), and "those that are acquired during the marriage" (properties nung KASAL NA), are generally COMMON.

Pero alam naman natin ang batas, pag may general rule, may exception to the general rule. And worst, may may exception to the exception.

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Q. Ano-ano ang mga mananatiling "EXCLUSIVE PROPERTIES" under the system of Absolute Community?

Ans:

1. Property brought to marriage by a spouse who has LEGITIMATE DESCENDANTS of a prior marriage (Example: Legitimate Child).

Example.

Nung nagpakasal si Krissy kay Jeyms, lahat ng bitbit niyang property ay COMMON. Kasi hindi naman siya kasal kay Filip.

So yung anak niya kay Filip ay illegitimate, so that CANNOT FALL in the exception.

Kaya pag nagpa-annul sila ng marriage ni Jeyms, at pag ang kampo ni Jeyms ay nag-insist na i-partition lahat ng property equally, walang magiging laban ang kampo ni Krissy.

Because practically, everything she brought to marriage, including those contracts that she signed during the marriage and the future income therefrom, shall be considered COMMON property. It cannot fall in the first exception.

Q: After annulment, pag si Krissy ay magpapakasal ng pangalawang pagkakataon, kailangan pa ba niyang mag-enter sa isang marriage settlement or pre-nuptial agreement para proteksyunan yung sarili niya?

Ans: Hindi na.

Kasi merong na siyang legitimate son kay Jeyms. So when Krissy would subsequently contract a second marriage, everything she will bring to the marriage will remain her exclusive property. Because she has a legitimate son of a prior marriage.

Q: Di ba na-annul na ang marriage ni Krissy at ni Jeyms? How will it affect the legitimacy of the child?

Ans: The legitimacy of the child could not be affected by the severance or annulment of marriage of the parents.

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2. Properties acquired during the marriage by GRATUITOUS TITLE (Ex. Inheritance, Donation)

Kasal na kayo. During the marriage, namatay yung parents mo. You will inherit from your parents. That is EXCLUSIVE\*

Kasal na kayo. During the marriage, si wife tumanggap ng GIFT mula sa kanyang parents. EXCLUSIVE NI WIFE\*

\*Unless the grantor provided otherwise.. Sabi ng parents ni Wife: “Bibigyan natin ng gift yung ating daughter at isi-share niya ito equally with her husband”. So the donation given to the daughter will be COMMON.

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3. Personal and Household effects(GENDER related assets) for the ”exclusive use” of the spouse (regardless of how acquired)

In other words, ang controlling ay yung “nature” ng property.Yung “use” ng property. (not withstanding how acquired).

Example: Ladies wearing apparel for the exclusive use of the wife.

EXCLUSIVE of wife

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Q: Kailangan pa bang alamin kung saan galing yung pera? Galing ba sa husband? Sa wife? Sa common fund?

Ans: Hindi na.

It doesn’t matter who paid for it. Ito yung mga exclusive property na pag pambabae, eh pambabae. (at kung panlalake naman, eh panlalake). Hindi mahalaga how it was acquired. Ang importante ay ang “gamit” or “use”.

LIMITED lang ang property ha. Ang sabi natin ay personal ang household.

Q: Paano kung KOTSE for exclusive use of the wife, acquired using the common fund.

EXCLUSIVE or COMMON?

Ans: COMMON. It will not fall under personal and household effects. There’s no such thing as pambabaeng kotse. Or panlalakeng kotse…

(Kailangan naka-limit lang yan sa personal, yung naka-attach sa gender)

EXCEPTION: Jewelry (COMMON)

Jewelries acquired during the marriage purchased using the common fund for the exclusive use of the wife. COMMON

Probably, ang reason ay para maiwasan i-convert ang ibang properties into jewelry. Pag ganito, si Wife lang ang makikinabang.

NOTE:

Inherited Jewelry brought into marriage = COMMON (GENERAL RULE for Absolute Community)

Inherited Jewelry during marriage = EXCLUSIVE (falls under EXCEPTION #2)

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C. CONJUGAL PARTNERSHIP OF GAINS

1.Properties brought into marriage (properties bago ikasal)

=> EXCLUSIVE

2. Propertied acquired during marriage (properties nung kasal na)

=> COMMON (general rule)

Properties received during the marriage by GRATUITOUS TITLE (Ex. Inheritance, Donation)

=> EXCLUSIVE, \*unless the grantor provided otherwise (SAME RULE AS ABSOLUTE PROPERTY)

3. Properties acquired during the marriage using EXCLUSIVE FUNDS

=> EXCLUSIVE

Properties acquired during the marriage using COMMON FUNDS

=> COMMON

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NOTE:

Inherited Jewelry brought into marriage = "EXCLUSIVE"

Inherited Jewelry during marriage = EXCLUSIVE (falls under EXCEPTION #2)

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#PART4

FRUITS (income from property)

‘1. Absolute Community Property –“accessory follows the principal” “fruit follows the property”

Exclusive Property = Exclusive Fruits

Commom Property = Common Fruits

2. Conjugal Partnership of Gains

Always “Common Fruits”

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#PART5

SUMMARY:

Absolute Community or Property (ACP)

"vs"

Conjugal Partnership of Gains (CPG)

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A. Properties brought into Marriage (properties bago ikasal)

1. ACP = COMMON (except if with legitimate descendants by a former marriage = EXCLUSIVE)

2. CPG= EXCLUSIVE

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B. Propertied acquired during marriage (properties nung kasal na)

1. ACP = COMMON [except properties received during the marriage by GRATUITOUS TITLE (Ex. Inheritance, Donation) = EXCLUSIVE]

2. CPG= COMMON [except properties received during the marriage by GRATUITOUS TITLE (Ex. Inheritance, Donation) = EXCLUSIVE]

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C. For personal use (during marriage)

1. ACP (Personal and Household Effects) = EXCLUSIVE (except Jewelry = COMMON)

2. CPG

(Properties acquired during the marriage using EXCLUSIVE FUNDS) = EXCLUSIVE

(Properties acquired during the marriage using COMMON FUNDS) = COMMON

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FRUITS (income from property)

1. ACP –“accessory follows the principal” “fruit follows the property”

Exclusive Property = Exclusive Fruits

Common Property = Common Fruits

2. CPG

Always “Common Fruits”

~Sir R.H.

(C) the accountant.

Enjoy 🐯