

Dissolution of marriage essay



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New Mexico is a community property state, “ property that either spouse acquires from community funds is presumptively community property” (Martin, 2011, p. 69). The Harris’ were married in 2001, so any property that they acquired during the course of the marriage would be considered community property with the exception of separate property. Separate property is property that is owned or acquired: “(1) prior to marriage, (2) by inheritance or bequest, (3) a gift, (4) assets traceable to other separate property, and (5) property that spouses agree is separate property” (Legal Dictionary, 2012).

Since Violet Harris filed for divorce in September 2007, it is now left up to the court to dissolve the marriage and the division of their assets which are a condo, BioTech, and other assets the couple acquired during the marriage. Max and Violet Harris purchased a condo together as a joint tenancy in New Mexico prior to marriage. A joint tenancy is defined as a “ property is owned in equal shares by one or more individuals” (Bagley, 2012, p. 92).

The initial expenditure to acquire the condo was secured with \$30, 000 from Max Harris’ personal savings account also known as separate property. If Max claims the condo as “ separate property then the joint tendency will be converted to a tenancy in common” (Bagley, 2012, p. 592), meaning that Max and Violet would receive their individual shares /percentage of equity they have invested in the condo.

However, since the funds were commingled prior to and after the marriage for mortgage payments for the condo then it is safe to assume that the property has been converted to community property. If the condo has been

converted to community property then both Max and Violet would share equally in the division of the condo. It can be determined that BioTech was founded during the course of the marriage with separate property that Violet had inherited from her grandmother.

During the course of the business Max worked for a separate company and had no involvement in the company. No community funds were used in the course of the operations of BioTech and Violet did not take a salary therefore she could not contribute community funds into the business. In my opinion, the court would determine that Violet would retain part of the value of BioTech as separate property and the other part of the value of BioTech would be designated as community property (Bagley, 2012, p. 592).

In this scenario, Violet would more than likely retain 50% of BioTech as separate property and 50% of BioTech as community property so she would feasible be able to keep 75% of her company assets which is better than selling the company before filing for divorce. Yes, it would have made a huge difference if Violet would have waited to file for divorce and then sell BioTech or let the court make the determination. In my opinion by Violet selling BioTech even though it was founded with separate property it is now converted into income earned during the marriage which is considered community property.