

## **LIVE IN...WHAT IS YOURS IS MINE, ALL THE TIME?**

Under the law, in the absence of proof to the contrary, when a man and a woman live in as spouses, and both have the legal capacity to marry but choose not to, there arises a presumption that properties acquired during their co-habitation have been obtained by their joint efforts, work or industry and are therefore co-owned by them in equal shares. In fact, the law provides that if one of the parties did not participate in the acquisition by the other of any property but the effort of the former consisted in the care and maintenance of the household, the “homemaker” shall be deemed to have contributed jointly to the acquisition of said property and thus considered as co-owner. This is what we usually refer to as common-law spouses.

On the other hand, where two individuals live in as spouses and cannot marry because of the existence of a legal obstacle (e.g. either or both are already married), the rule is that only properties acquired by them through their actual joint contributions of money, property or industry shall be owned by them in common in proportion to their respective contributions.

Is it possible for these two regimes to apply to the same live in couple?

Yes. This is what happened in the following case.

Romualdo physically separated from his legal wife Amanda and began cohabiting with Pacita for the rest of his life.

After forty years, Amanda died. Twenty years later, Pacita followed.

Pacita’s siblings who were her legal heirs then sought to extra-judicially settle the properties that Romualdo and Pacita bought during their union. This was contested by Romualdo’s children with Amanda, the legal wife.

In resolving the issue, the Supreme Court made a careful distinction.

Insofar as the properties bought while Amanda was still alive, Pacita’s siblings need to show proof that there was an actual contribution of money by Pacita in the acquisition of said properties. This is because the marriage of Romualdo and Amanda was still subsisting at that point, a clear legal obstacle to Romualdo and Pacita’s possible marital union.

However, after Amanda died, the marriage between her and Romualdo was dissolved and with this, the legal obstacle to the possible marriage between Romualdo and Pacita was effectively removed. From that time onward, Pacita enjoyed the presumption of being a co-owner over the purchases that Romualdo made. Thus, in the absence of proof that these were bought using Romualdo’s

exclusive funds, Pacita's siblings may rightfully inherit from her share in those properties.

*(Based on G.R. No. 141501, July 21, 2006)*