

PURCHASES BY LIVE-IN COUPLES – WHO IS THE OWNER?

A Transfer Certificate of Title (TCT) is the best evidence in proving ownership over real property. By law, every TCT is required to include the names of all the persons who have ownership interest over the property concerned, including their personal circumstances such as civil status. Commonly, a person's name will appear in the TCT either: a) alone; b) together with another joined by the conjunction "*and*"; or c) together with another joined by the words "*married to*".

In addition, property that is bought during the existence of a marriage – or of a cohabitation where both parties have the capacity to marry but do not enter into marriage – is presumed to belong to both spouses or parties even if the TCT fails to mention either one of them.

The same rule does not hold true, however, for those cohabiting as husband and wife without the benefit of marriage, there being a legal impediment, such as the existence of a subsisting marriage of either or both parties.

Careful attention must be given to these points in order to be able to properly interpret a TCT and determine the ownership interests of live-in partners in a property.

A fairly recent case is illustrative.

In 1981, Benjamin cohabited with Sally as husband and wife despite his existing marriage with Azucena.

During their period of cohabitation, they acquired numerous real properties. The TCTs of these properties can be categorized in the following manner:

1. Those where Benjamin's name appears with his brothers;
2. Those where only Sally's name appears;
3. Those where the owners were stated to be Benjamin *and* Sally; *and*
4. Those where the words "Benjamin *married to* Sally" appeared.

They separated in 1994.

Benjamin then sought to have their properties partitioned.

The case eventually reached the Supreme Court which ruled that Benjamin and Sally's cohabitation was governed by Art. 148 of the Family Code, the reason being that they were *incapable* of marrying one another because of Benjamin's existing marriage with Azucena. Under Art. 148, it is not sufficient that it is shown that the property was bought during the existence of the cohabitation for either party to have an interest, but rather, proof of *actual contribution* is required.

Where the name of Benjamin appears in the title without the name of Sally, Sally cannot claim any interest in the property in the absence of evidence of her actual

contribution in the acquisition of said property. In the same vein, where it is Benjamin whose name does not appear on the title where Sally's name appears, Benjamin cannot claim ownership interest over the property in question without showing any evidence of his actual contribution. This, notwithstanding that the properties were acquired during their cohabitation.

Insofar as the properties with the words "Benjamin *married to* Sally" are concerned, the addition of Sally's name is merely descriptive of Benjamin's would-be civil status and is not evidence of either co-ownership or actual contribution.

In the end, only the properties where Benjamin and Sally's name are joined by the conjunction "and" are co-owned by them.

(Based on G.R. No. 201061, July 3, 2013)