

Essay Question

Hugh and Winifred were married in 1970. Recent college graduates, they spent just about all they earned. It was a real surprise in 1980 when Winifred's great-aunt Hermione came up with a \$20,000 down payment on a \$100,000 condominium they had been coveting. They took title as joint tenants.

The only other financial investments they made – at the suggestion of Hugh's mother – were to arrange for the automatic withdrawal of \$200 a month from their checking account for the purchase of Fidelity mutual funds and \$150 a month for a whole life insurance policy on Hugh.

In 1985 Hugh moved out of the condo and took a job in San Diego. It was a professional opportunity he couldn't pass up – even if Winifred was unwilling to accompany him. Hugh and Winifred continued to share bank accounts and sign joint tax returns until the present. Hugh thinks of Winifred as his best friend. He has sex with her occasionally when he is in town for business. Winifred often spends her vacation with him in San Diego. Hugh never felt inclined to file for divorce before because the presence of a spouse, at least in name only, operated as a convenient defense to any demand for commitment from his girlfriends over the years. And Winifred had never withdrawn more than ordinary living expenses, a tad more than her paycheck, from their joint checking account.

Hugh has now found the love of his life, Dolly, his twenty-three year old administrative assistant. He has decided to accept his employer's offer of enhanced retirement so he can spend more time on the beach with Dolly. Hugh has been paying \$4,000 a month rent on a penthouse apartment for Dolly in his office building since January of this year.

Hugh was stunned by the reaction when he told Winifred about his plans. She has filed for divorce, seeking one half of his pension and 100% of the condo that she has been living in and making payments on all of these years. She also wants half of the Fidelity mutual funds, checking account, and cash surrender value of Hugh's life insurance policy. Winifred has been working at a variety of jobs over the years; none offered employment benefits.

The condo is now worth \$600,000. The unpaid mortgage is \$5,000.

The mutual funds, given Hugh's close attention and frequent trades, are worth \$400,000.

The cash surrender value of Hugh's life insurance is \$50,000. The face value is \$500,000. Dolly is the designated beneficiary.

The present balance in the checking account is \$20,000.

Hugh's ordinary retirement pension is calculated by multiplying 2% times years of employment times highest annual salary. In his case, that translates as 2% times 23 years

EXAM #

times \$200,000 a year or \$92,000 a year until Hugh dies. His employer will give him an additional \$10,000 a year if he retires by August 1.

Advise Hugh.

When he heard your comments, Hugh fell over dead from a heart attack. He left no will. What will happen to the property now?

If Hugh had consulted you in 1985, what would you have suggested?

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