

Common-law marriage (live-in relationships) in the Philippines

Money is [one of] the root[s] of all kinds of relationship problems, says an article at the Family Relationships site. In my modest years of law practice, I can say that among the most bitter confrontations (in and out of court) relate to property/money/inheritance issues between members of the family.

Under the Family Code of the Philippines, property matters between the husband and wife are set forth in relative detail, e.g., the forms and requisites of a marriage settlement or ante-nuptial agreement, donations by reason of marriage, the “default” property regime of absolute community of property (vis-a-vis separation of property, and conjugal partnership of gains), support for the spouse and the children, and the effects of legal separation and annulment of marriage on the spouses’ properties. I’m still trying to decide if I should further discuss any of these topics (also, the rules on succession/inheritance are treated in other laws/issuances, and may be discussed separately in other entries).

For this entry, allow me to focus on something that appears to be increasingly common nowadays — the “live-in” relationship, also called “common-law marriage“. This is governed by Article 147 of the Family Code, which reads:

Art. 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.

In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes of this Article, a party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former’s efforts consisted in the care and maintenance of the family and of the household.

Neither party can encumber or dispose by acts inter vivos of his or her share in the property acquired during cohabitation and owned in common, without the consent of the other, until after the termination of their cohabitation.

When only one of the parties to a void marriage is in good faith, the share of the party in bad faith in the co-ownership shall be forfeited in favor of their common children. In case of default of or waiver by any or all of the common children or their descendants, each vacant share shall belong to the respective surviving descendants. In the absence of descendants, such share shall belong to the innocent party. In all cases, the forfeiture shall take place upon termination of the cohabitation.

The Family Code (Art. 147) recognizes, and expressly governs the property relations in, the relationship where a man and a woman live exclusively with each other just like a husband and wife, but without the benefit of marriage (or when the marriage is void). It is required, however, that both must be capacitated, or has no legal impediment, to marry each other (for instance, couples under a “live-in” relationship will not be covered under this provision if one or both has a prior existing marriage). In this situation, property acquired by both spouses through their work and industry shall be governed by the rules on equal co-ownership. Any property acquired during the union is presumed to have been obtained through their joint efforts. As to the homemaker, or the one who cared for and maintained the family household, he/she is still considered to have jointly contributed to the acquisition of a property, even if he/she did not directly participate in the property’s acquisition.

How about if one or both partners are not capacitated to marry, as when one (or both) has an existing or prior marriage which has not been annulled/declared void? This is covered under Art.

148 of the Family Code, which reads:

Art. 148. In cases of cohabitation not falling under the preceding Article, only the properties acquired by both of the parties through their actual joint contribution of money, property, or industry shall be owned by them in common in proportion to their respective contributions. In the absence of proof to the contrary, their contributions and corresponding shares are presumed to be equal. The same rule and presumption shall apply to joint deposits of money and evidences of credit.

If one of the parties is validly married to another, his or her share in the co-ownership shall accrue to the absolute community or conjugal partnership existing in such valid marriage. If the party who acted in bad faith is not validly married to another, his or her share shall be forfeited in the manner provided in the last paragraph of the preceding Article.

The foregoing rules on forfeiture shall likewise apply even if both parties are in bad faith.

In other words, under Art. 148, only the properties acquired through their ACTUAL JOINT contribution of money, property or industry shall be owned by them in common (in proportion to their actual contributions). There is no presumption that properties were acquired through the partners' joint effort. Please also note that if one has a prior marriage, his/her share shall be forfeited in favor of that previous marriage (as an aside, the children under the second relationship shall be considered as illegitimate).

So, as previously stated in this Forum, put your (first) house in order first. No need to rush; love is patient. It can wait.

Ref.: <http://buhay-hiwalay.blogspot.com/2008/07/common-law-marriage-live-in.html>