

Community Property

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Class 10 [415-176]

Management & Control

- n Pre-1975 – H has right to M&C except
 - n No gifts of community property
 - n No transfer of real property without W's written consent
 - n No sale of household furnishing or clothing of spouse or minor children
- n Post 1951 – W given right to M&C over her earnings unless commingled

1975 – Equal Rights to M & C

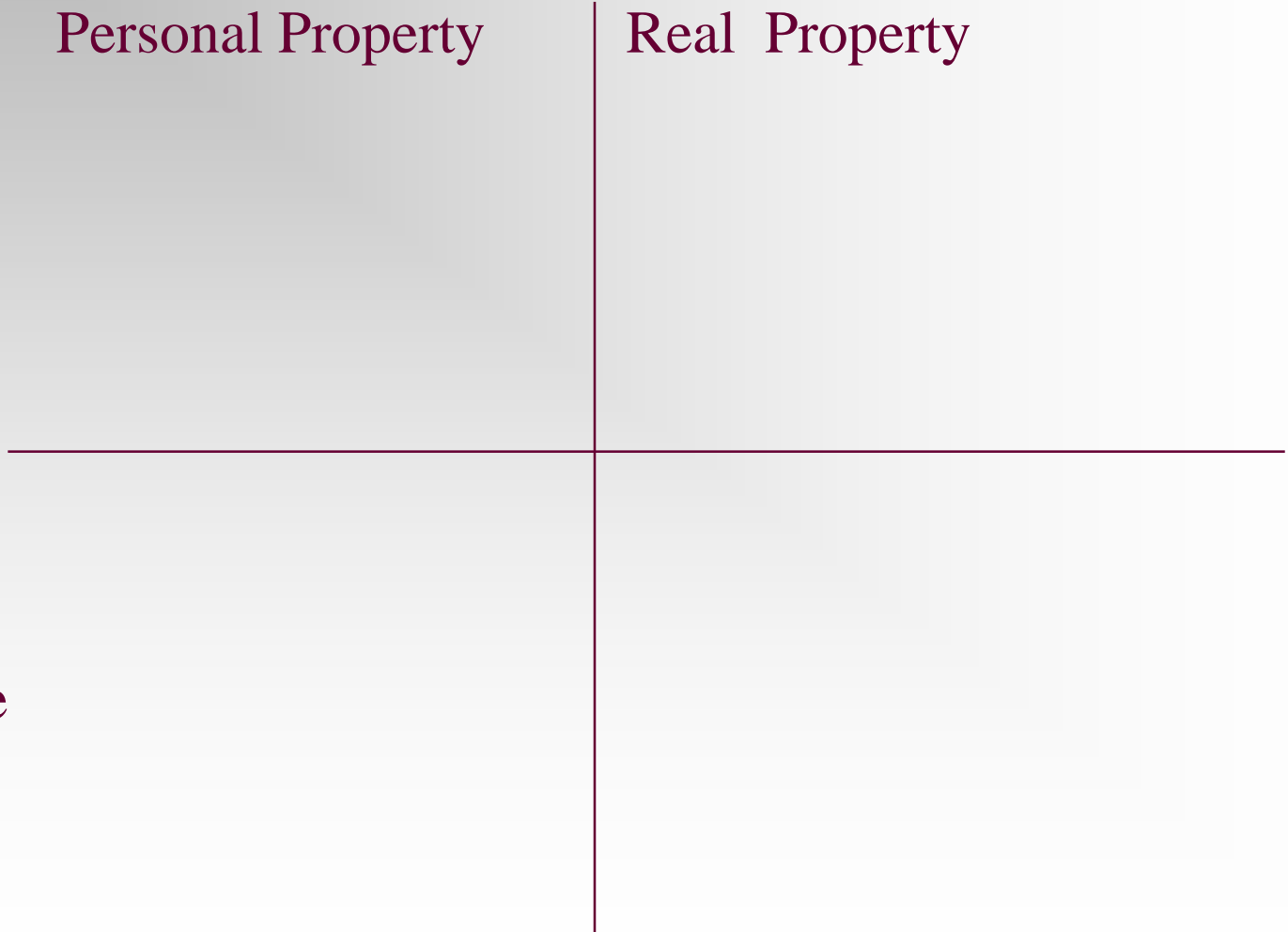
- n Spouse now have equal rights to management & control of CP except
 - n CP business operated by one spouse
 - n CP held in a trust
 - n CP interest of an incompetent spouse

Personal Property

Real Property

Donative
Transfer

Transfer
For Value



Neither spouse can make gifts BUT

- n If set aside during donor's life

- n If set aside after donor's death

Neither spouse can sell CP realty BUT

n If purchaser is “super BFP” . . .

n If the purchaser is not . . .

Cases

n Lezine – 423

n Wilcox -- 435

n Spreckles – 439

n Fields – 445

n Harris – 447

n Estate of Bray – 449

The Fiduciary Duty

- n **“ confidential relationship imposes a duty of the highest good faith and fair dealing on each spouse, and neither shall take any unfair advantage of the other.”**
- n **“the same rights and duties of nonmarital business partners”**

The duty: Fam C §§ 721, 1100, 1102

Remedy: Fam C §§ 1101; 2602

Hypos: p. 457

Creditor's Rights

- n Unless excepted by statute, all community property is liable for all debts of either party whenever incurred.
- n Liability for debt is generally coextensive with the right to M & C

/recall George v Ransom

/Fam C §900 et seq.

/Summary Table – Handout

Cases

n Schultz – 458

n Moore – 459

n Beltran – 460

n Lucero – 464

n Somps – 465