ANNA & ASSOCIATES
Law Office

Monthly Legal Brief
February 2022
Vol.27

COHABITATION

1. What is Cohabitation?

On the previous monthly legal brief, we have understood more regarding the legal marriage which complies with the law. On the other hand, if a man and woman live together as husband and wife in contrary to the provisions of law, this relationship shall consider as "**Cohabitation or Common Law Marriage**". Hence, what is "**Cohabitation**"?

Cohabitation is the relationship between man and woman, living together under the same roof as husband and wife, having sexual relationships and properties without registering the marriage, or only celebrating according to the traditional ceremony. For instance, Mr. A and Mrs. B had a marriage which celebrated based on the traditional practice with the attendance of their parents and relatives. After marriage, they do not register their marriage with the registrar. This type of marriage does not recognize by the law and it can affect the interest of the partners as well. Especially, when the rise of the dissolution of cohabitation occurs, which will be discussed in the next newsletter.

WHAT'S NEW

Ministry of Land Management, Urban Planning and Construction (MLMUPC) issued a Prakas No. 001 on 04 January 2022 on "The Implement of Construction Inspection and Certificate Notification" with the purpose to push the construction owner, real estate developer, and residential developer to find the construction professional or inspection and certification company who has a license granted by MLMUPC to inspect and issue a certificate of construction plans, construction work, demolition the construction based on construction technical standard and other existing regulations, before requesting for construction permit, demolition, repair, construction site opening and construction use certificate.

2. What are the reasons that lead to the appearance of the cohabitation relationship in society?

According to the observation of the society nowadays, there are several reasons that men and women chose to have a cohabitation relationship as follows:

- One of the parties is still bound by the previous marriage which has not officially dissolved yet or one of the parties is a minor whose age does not reach the legal age to get married;
- Perception of men and women who do not want to be bound by the legal marriage, change of surname and to have the rights for divorce when both parties cannot live together anymore, which the divorce does not require the legal procedure as the legal marriage;
- Lack of understanding the condition to obtain the legal marriage or do not comply with the laws since they believe that the procedure of register marriage is complicated or both parties believe that the traditional marriage is way more important than register the marriage;
- The man and woman who have been living together before the law on registration of marriage adopted or have not registered their marriage after instruction on the registration in registrar book to bring the sustainability after the registration campaign issued on 18 May 2007 in point 4.

Disclaimer: The information stated in this publication is for information purposes only and is not intended to suggest any legal advice. Please kindly note that legal advice must always be obtained from and provided by competent and qualified lawyers and counsels for all situations.

3. What are the advantages and disadvantages of cohabitation?

There is no law or regulation stated clearly about cohabitation. Therefore, the advantages and disadvantages of cohabitation are based on the observation and issues that occur in society nowadays as below:

Advantage	Disadvantage
- Easy to create and dissolve without requiring complicated procedures like a legal marriage; - Can live together easily, save time and spend less on the marriage ceremony; - One of the parties has the rights claim for compensation incurred due to the death of the other party, who has the obligation to provide alimony.	- One of the parties can create a new cohabitation by not illegal which is opposite from the Monogamy Law of Cambodia in Article 2 that allow the husband and wife to respect the principle of adultery; - The parties of cohabitant relationship are not the successor of the other party; - The child of the parents of Cohabitant is single parental power that mother has the rights of parental power; - The parties of cohabitation can make a property agreement but may not have the same power as the property agreement of the legal spouse since the property is not registered by the law and therefore cannot be settled with the third parties.

According to the above explanation, living as a cohabitant provides both advantages and disadvantages. However, to protect the interest of both parties or children under the law, man and woman shall be bounded with the legal marriage, register the marriage and property agreement of spouse as stated in the applicable law in Cambodia.

CONTACT US
Anna & Associates Law Office
Website: www.anna-associates.com
Email: info@anna-associates.com
Tel: (+855) 99 888 737

Address: Building No. 234, 7th Floor, Mao Tse Toung Blvd, Sangkat Tumnob Teuk, Khan Beoung Keng Kang, Phnom Penh, the Kingdom of Cambodia

Disclaimer: The information stated in this publication is for information purposes only and is not intended to suggest any legal advice. Please kindly note that legal advice must always be obtained from and provided by competent and qualified lawyers and counsels for all situations.