

Tenancy in Common

Parties

Any number of persons (can be husband and wife, but see "Presumption" limitations below)

Division

Ownership can be divided into any number of interests equal or unequal.

Title

Each co-owner has a separate legal title to his undivided interest.

Possession

Equal right of possession (only unity of interest required).

Conveyance

Each co-owner's interest may be conveyed separately by its owner. Tenancy in common dissolved by conveyance of co-tenant interest to another new tenancy in common is created between grantees and remaining co-tenants.

Purchaser's Status

Purchaser will become a tenant in common with the other co-owners in the property.

Death

On co-owner's death, his interest passes by will to his devisees or his heirs by intestate succession. No survivorship right.

Successor's Status

Devisees or heirs become tenants in common.

Creditor's Rights

Co-owners's interest may be sold on execution sale to satisfy his creditor. Creditor becomes a tenant in common with remaining co-tenants. Termination may occur as a result of involuntary sale (e.g., execution sale under a judgment or a foreclosure sale under a mortgage or deed of trust).

Presumption

Favored in doubtful cases except husband and wife case. Reference to husband and wife in the deed of sale, without mention of any other form of ownership, creates statutory presumption that the property is community in nature.

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