



Purchasing property is a significant investment and it is becoming increasingly popular for two people to purchase a property together.

When there is more than one purchaser, whether it is a married couple, siblings, or friends, it is very important to ensure that the type of ownership agreement you have is the right one. Getting the type of ownership correct at the start of the purchase process will help to prevent any problems down the track if one of the owners wants to relinquish their share, or upon the death of a co-owner.

What types of ownership are there?

Joint tenancy and tenancy in common are the two most common classifications of ownership of a property.

Whilst both arrangements give each party ownership rights and a share of the property, the main difference between these two kinds of tenancy is the fact that there are different rules concerning the death of one of the tenants.

Joint tenancy pertains to property ownership in which each party on the title to the property holds an individual interest in the property. An example of a joint tenancy is the ownership over a house by a married couple. In this situation, joint tenancy comes with the "right of survivorship". That means that when one of the joint tenants dies, the interest of the deceased joint tenant automatically passes to the surviving joint tenant or tenants and does not form part of the estate of the deceased.

Tenancy in common, on the other hand, refers to ownership over a certain property by parties who do not automatically have a right of survivorship (for example friends or siblings). They are co-owners of the property, however their shares and interest over the property do not have to be equal and depend entirely on the agreed shares of the parties. In a tenancy in common arrangement, if one of the parties dies their interest in the property forms part of the deceased's estate and does not automatically pass on to any co-owner of the property.

For there to be a joint tenancy the 4 unities must exist these are as follows.

- **Unity of time**
The interest in the property must be acquired by both tenants at the same time.
- **Unity of title**
The interests in the property held by the co-owners must arise out of the same instrument.

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- **Unity of interest**

Both tenants must have the same interest in the property. There is no joint tenancy if for example one tenant has a life interest and the other has the remainder interest.

- **Unity of possession**

Both tenants must have the right to possess the whole property.

If any of the four unities is broken and it is not a joint tenancy, the ownership reverts to a tenancy in common.

There are pros and cons to each form of ownership and it is always advisable to speak to your lawyer before purchasing a property to determine what works best in your situation.

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