



Problems Arising from Co-Ownership

Problems in co-ownership can arise, inter alia, through the voluntary purchase of indivisible shares in a property by two or more persons, as well as through inheritance, in which case the immovable property of the deceased person passes to the heirs in undivided shares.





Co-ownership can be problem-free if the co-owners are on good terms with each other. In many cases, however, co-ownership creates serious problems, including the following:

- The exploitation of the shares in a co-owned property can become economically unbearable.
- The potential for the use/development of a co-owned property is being minimised.
- Conflicts between the co-owners arise due to disagreements on how to exploit the shares and/or distribute/divide the property.
- Time-consuming and burdensome procedures are needed to exit co-ownership.

The above problems become even more so where there is a large number of co-owners, which, especially in the case of properties held by inheritance, increases over time. Unfortunately, parents believe equal transfer of shares to their children through inheritance, will be fair practice. However, in the future, the children have to struggle to divide the property, a process that can be time-consuming, may create conflicts between them and is often carried out



Provisions of the law that restrict co-ownership

The Law on Immovable Property (Tenure, Registration and Valuation), Cap. 224, contains provisions for limiting co-ownership, such as:

● Amicable Division/Distribution:

An immovable property consisting of one or more properties owned by two or more co-owners may, under certain conditions, be distributed/divided (provided that the minimum permitted areas are not violated) by agreement of all co-owners. This procedure is certainly the most recommended. It is usually weakened by the opposition of at least one co-owner.

● Forced Division/Distribution:

When the co-owners do not agree to an amicable division/distribution, then any one of the co-owners has the right to request from the Director of the Department of Lands and Surveys, under certain conditions, the forced division/distribution of the immovable property held in undivided shares, in order to end the co-ownership.



● **Division into half plots:**

A co-owner has the right to request, under certain conditions, the vertical separation of a plot of land which he/she owns with another person.

● **Right of Option:**

A co-owner of an undivided share in any immovable property may agree to sell and transfer his/her share to any other person. In case the share is sold to a person who is not a registered co-owner in the same property, the transfer of the share is not registered in the name of the buyer before the registered co-owners are given the right/option to acquire it themselves at the agreed price.

● **Auction of a property held in undivided shares:**

In cases where the immovable property is held in undivided shares (i.e. it cannot be divided according to its area), then, upon request of one of the co-owners, a certificate of indivisibility can be obtained from the Director of the Department of Lands and Surveys and the property can be sold at public auction.

Tips for avoiding indivisible co-ownership

Exit from co-ownership is often difficult and creates friction and conflicts between the co-owners.

Hence:

- If you are parents, make sure you transfer your property to your children in good time and consider transferring whole shares to each child. When transferring your immovable property, the land law always provides for the possibility of retaining in your name, for life, the rights of occupancy and/or usufruct of as many of your properties as you wish.
- Choose to acquire whole shares. Avoid buying a share of a co-owned property. This advice does not apply to spouses and in cases where you are confident that co-ownership will help you in cooperative economic activity, or for other special reasons.
- In case you are trapped in a co-ownership, read the law or talk to experts in order to find the best option to exit from an indivisible co-ownership.
- If a person dies and you are his/her heirs or trustees, then you should proceed immediately to the distribution of the property in the names of the heirs, provided that an agreement has been reached between you to distribute the property in whole shares, where possible.

For more information visit the website:

<https://portal.dls.moi.gov.cy>



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