

Property Ownership

Joint Tenants or Tenants in Common

So, you have purchased a property by signing off "and/or nominee".

Or, you have been told to purchase the property "and/or nominee".

My question to you is, do you propose to nominate yourself as the registered owner of the property or joint with your partner(s)?

Our focus for today is on co-ownership

Where you have bought a property and there is more than one buyer, you can have the property transferred to you both as owners in one of 2 ways, as:

- "joint tenants"; or,
- "tenants in common"?

The type of co-owners you choose to be has legal consequences!

JOINT TENANTS - means that if one co-owner dies, the surviving co-owner automatically becomes the owner, irrespective of any Will of the deceased. That is, the name of the deceased is simply removed from the title, and the surviving co-owners remain.

For example, if A & B own a property and B dies, B's name is removed from the title leaving A as the sole owner.

TENANTS IN COMMON - in this form of co-ownership, you can have equal or unequal ownership shares in the property. That is, A can own 5 of 10 shares and B the other 5 shares. Or, A may own 2 of 10 shares and B, 8 of 10 shares. If you choose to own as tenants in common, on death, the "share" owned by the deceased passes according to the Will of the deceased.

OWNERSHIP CHANGES - so long as the owners are married or in a domestic 'de facto' relationship and the property is their principal place of residence, they can transfer the whole or part amongst themselves, stamp duty free.

There are however some small catches:

1. Titles office fees are payable and are pretty minimal, of less than \$200.
2. If there is a loan security and the title is in only one name, transfer of the whole or part to the other spouse will usually trigger a new loan and fresh assessment of the borrower's capacity and result in a fresh security being lodged.

We understand that in many cases you may be married and note that "joint tenancy" is the usual (though not invariable) manner of holding for married persons.

Finally, please convey with your solicitor your intention that you propose to live in the property as your principal residence or otherwise.