



Buying In Joint Names

When two or more people buy a property together they have to decide what form of ownership they wish to have. Before they may do so, it is very important they understand the different types of joint ownership available and the implications of each.

Forms of Ownership

In real terms, there are 2 ways in which property may be owned. Unfortunately, the technical names are rather similar but there are fundamental differences.

Beneficial Joint Tenants

The property is owned by both (or all) of the owners equally; there is no scope to split ownership into unequal shares. If one of the owners dies, ownership of the property immediately and automatically passes to the surviving owner(s). It does not matter what their will says; in fact, the property does not even form part of his or her estate so, for example, no tax will be payable.

Traditionally, this form of ownership is felt to be most suitable for couples but there can be some unforeseen consequences - see below.

Tenants in Common

This form of ownership allows the owners to specify the proportions of ownership. These may be equal or unequal. If one owner dies, his or her share will be dealt with as directed by his or her will (or the legal rules which apply if someone dies without a will). So, the share could pass to one of the remaining owners or to someone completely different.

Traditionally, this form of ownership is felt to be suitable for business partners. As a result, a feature of this type of ownership is that (usually) if one owner wants to sell the property the others can be forced to agree.

Implications

As explained above, the distinction is mainly felt when one of the owners dies. With **Beneficial Joint Tenants** the survivor is assured ownership of the property. With **Tenants in Common** there is no such certainty and the survivor may have to sell the property if that is what the new owner wants.

Although couples may want that sort of security, it is important to understand the implication of this especially in case of a second marriage or relationship. If you have children from a previous marriage or relationship, they will not inherit any part of the property if you own it as **Beneficial Joint Tenants** even if your Will says they are to inherit. This can be a difficult issue to think about but as many people do not fully appreciate this particular consequence we always enquire about previous marriages so we can explain the position.

A second area where the distinction may be felt is if the relationship between joint owners breaks down. Although no one intends to "split up" unfortunately this does sometimes happen and, when it does, there are often disputes about who is entitled to what from the proceeds of sale of the property.

If both owners have contributed equally, it may be obvious to split the proceeds equally. But, if one of you makes an unequal contribution either to the purchase monies or to the mortgage repayments or to any other expenses, you may want to ensure that when the property is sold you are entitled to receive a larger share of the proceeds.

Owning as **Beneficial Joint Tenants** has the effect of 'proving' joint equal ownership. Even if one person is paying all the money, if the property is ever sold, it will be difficult to avoid the proceeds being split equally. So, if you want to specify a distinct division of ownership, you really need to choose to own as **Tenants in Common**.

The law about joint ownership can seem quite complicated and is hard to explain so if you have any questions please get in touch. In any case, before completing the purchase, we must have your instructions about the type of ownership you want. Please consider the options and their implications and then return this form completed with your choice.

Please delete the 2 boxes which do not apply then sign and date below:

WE wish to own the property as **Beneficial Joint Tenants**

WE wish to own the property as **Tenants in Common in Equal Shares**

WE wish to own the property as **Tenants in Common** in the following shares:

Name Share.....

Name Share.....

Name Share.....

Name Share.....

Signed (All Buyers)

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Dated