



# Law of Property Act 1925

## 1925 CHAPTER 20

### PART I

GENERAL PRINCIPLES AS TO LEGAL ESTATES, EQUITABLE INTERESTS AND POWERS.

*Undivided Shares and Joint Ownership.*

#### **34 Effect of future dispositions to tenants in common.**

- (1) An undivided share in land shall not be capable of being created except as provided by the Settled Land Act, 1925, or as hereinafter mentioned.
- (2) Where, after the commencement of this Act, land is expressed to be conveyed to any persons in undivided shares and those persons are of full age, the conveyance shall (notwithstanding anything to the contrary in this Act) operate as if the land had been expressed to be conveyed to the grantees, or, if there are more than four grantees, to the four first named in the conveyance, as joint tenants upon the statutory trusts hereinafter mentioned and so as to give effect to the rights of the persons who would have been entitled to the shares had the conveyance operated to create those shares:

Provided that, where the conveyance is made by way of mortgage the land shall vest in the grantees or such four of them as aforesaid for a term of years absolute (as provided by this Act) as joint tenants subject to cesser on redemption in like manner as if the mortgage money had belonged to them on a joint account, but without prejudice to the beneficial interests in the mortgage money and interest.

- (3) A devise bequest or testamentary appointment, coming into operation after the commencement of this Act, of land to two or more persons in undivided shares shall operate as a devise bequest or appointment of the land to the trustees (if any) of the will for the purposes of the Settled Land Act, 1925, or, if there are no such trustees, then to the personal representatives of the testator, and in each case (but without prejudice to the rights and powers of the personal representatives for purposes of administration) upon the statutory trusts hereinafter mentioned.

- (4) Any disposition purporting to make a settlement of an undivided share in land shall only operate as a settlement of a corresponding share of the net proceeds of sale and of the rents and profits until sale of the entirety of the land.

**35 Meaning of " the statutory trusts."**

For the purposes of this Act land held upon the " statutory trusts " shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts, and subject to such powers and provisions, as may be requisite for giving effect to the rights of the persons (including an incumbrancer of, a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land.

**36 Joint tenancies.**

- (1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, the same shall be held on trust for sale, in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.
- (2) No severance, of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise, but this subsection does not affect the right of a joint tenant to release his interest to the other joint tenants, or the right to sever a joint tenancy in an equitable interest whether or not the legal estate is vested in the joint tenants:

Provided that, where a legal estate (not being settled land) is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy in equity, he shall give to the other joint tenants a notice in writing of such desire or do such other acts or things as would, in the case of personal estate, have been effectual to sever the tenancy in equity, and thereupon under the trust for sale affecting the land the net proceeds of sale, and the net rents and profits until sale, shall be held upon the trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

- (3) Without prejudice to the right of a joint tenant to release his interest to the other joint tenants no severance of a mortgage term or trust estate, so as to create a tenancy in common, shall be permissible.

**37 Rights of husband and wife.**

A husband and wife shall, for all purposes of acquisition of any interest in property, under a disposition made or coming into operation after the commencement of this Act, be treated as two persons.

**38 Party structures.**

- (1) Where under a disposition or other arrangement which, if a holding in undivided shares had been permissible, would have created a tenancy in common, a wall or other structure is or is expressed to be made a party wall or structure, that structure shall be

and remain severed vertically as between the respective owners, and the owner of each part shall have such rights to support and user over the rest of the structure as may be requisite for conferring rights corresponding to those which would have subsisted if a valid tenancy in common had been created.

- (2) Any person interested may, in case of dispute, apply to the court for an order declaring the rights and interests under this section of the persons interested in any such party structure, and the court may make such order as it thinks fit.