

[Back to Weisleder: Understand the consequences of joint tenancy](#)

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Mark Weisleder

If you buy a home with your spouse or another person this year, you will have to decide how to take title together. It can be either as a joint tenancy or tenancy in common. It is important that you first understand the main difference between these two options before making your decision.

In a tenancy in common, if one of the owners passes away, they can leave their share of the property to anyone they choose. However, in a joint tenancy, there is a principal called survivorship. What this means is that if two owners are joint tenants and one dies, their share automatically passes to the surviving joint tenant upon death. They cannot leave it to anyone else in their will. There are some tax advantages in holding property as joint tenants as it can reduce estate taxes.

David Ramnarine and his common law partner, Meera Ragoo, bought a home together at 840 Eighth Street in Mississauga in September 2007 and took title as joint tenants. David passed away in July 2010. His share of the home automatically transferred to Meera, by the principal of survivorship.

However, his mother, Joyce Ramnarine, produced an agreement that was apparently signed by David in 2009, where he said that he was holding all of his property in trust for his mother. Joyce claimed that this agreement broke the joint tenancy, since it proved that David never intended to hold the property solely with Meera. Meera claimed that she never was told about the agreement, it was only produced after David passed away and that the signature was a forgery. The agreement was never registered against title to the property.

In trying to figure out the answer to this case, the judge had to look at whether it was possible to break a joint tenancy once it was already created.

In 1987, in the case of *Horne v Evans*, an unhappily married couple owned a family home as joint tenants. The husband, shortly before his death, transferred his share of the property to himself, without telling his wife. He did this to try and break the joint tenancy, so that he could leave his share of the home to someone else. The reason this breaks the joint tenancy is that an important element of a joint tenancy is that you acquire your interest in the property at the same time as your partner. By transferring the property to yourself, you have now technically acquired your interest at a different time, so this breaks the joint tenancy. In Ontario, you are permitted to transfer property to yourself, even though the concept is hard to understand.

However, also under Ontario family law, you cannot sell or transfer your share of a family home without your married spouse's permission. This is why *Horne's* wife challenged the transfer, saying that since she did not give her permission, it shouldn't count. The judge disagreed, saying that people should have the right to change the way they hold title, if it is permitted under Provincial law.

After looking at these and other cases, Justice J. Seppi ruled on July 20, 2011 that there was no evidence that could reasonably support Joyce's claim. David and Meera were still living together at the time of his death and there was no witness to the agreement that he apparently signed. The judge stated that they were still joint tenants at the time of his death, so she inherited his share of the property.

The real lesson here is that before you agree to ever take title as joint tenants, understand the consequences, so that you do not have to try and figure out how to break it later if you change your mind.

Mark Weisleder is a lawyer, author and speaker to the real estate industry. You can email Mark at mark@markweisleder.com

