

ABBEY & RICHARDS

CO-OWNERSHIP OPTIONS

Parties: Shilpa Jennings and Daniel Rodriguez

Property: 9 Castle Hill Blakey

Joint tenants

If you both own the property as joint tenants, both of you own all the property—neither of you are entitled to a separate part.

The joint tenancy gives “rights of survivorship”. This means that if one of you dies, the property automatically passes to the other surviving joint tenant. No part of the property belongs to the estate of the person who has died.

This automatic right makes this method of co-ownership attractive to people who are married.

If one of you dies and the other re-marries, the survivor could transfer the property into joint names of joint tenants. It is possible that any children from the previous marriage may be left without any claim to the property or proceeds of sale.

A joint tenancy can be “severed”. This changes it into a tenancy in common with an equal or unequal split, depending on the circumstances (see the following notes).

Tenants in common

If you own the property as tenants in common, each of you holds an agreed proportion of the property, for example 50:50, 40:60 or any other agreed proportion.

Your part can be transferred either during your lifetime as a gift, or on your death by your will or intestacy (where there is no will). In this way you can deal with different contributions each of you make to the purchase price.

If you separate, the property cannot be sold without both of you being a party to the contract and transfer.

If you decide to be tenants in common, you will need to discuss and decide in what proportions you wish to hold the property.

We can prepare a document called a 'Declaration of trust' to record unequal contributions to the purchase price. It can also record, for example, unequal contributions to mortgage payments and your intentions in the event of a breakdown in your relationship.

