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Next Issue: Buying a Business for  
the First Time

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## PROPERTY WHICH FORMS PART OF AN ESTATE

When someone passes away, any property they own forms part of what's known as their Estate. The Executor/Administrator (depending if they had a Will) is responsible for administering the Estate assets and ultimately disposing of these to the beneficiaries.

The Executor/Administrator's responsibilities include arranging for payment of the balance of any bank accounts and writing to the respective investment companies (if shares or other investments were held) to either sell the shares or transfer the holdings directly into the beneficiaries' names. Any property in the deceased's name would either be sold (in which case it would be transferred to the Executors' names in the interim) or be transferred to the beneficiaries.

Some of the deceased's assets however do not form part of their Estate and therefore are not transferred to the beneficiaries once the Estate matters are finalised.

One example is where the deceased owned an asset jointly with someone else i.e. a joint bank account. The survivor is entitled to have the joint asset transferred into their sole name regardless of whether they stand to benefit from the Estate pursuant to the Will or laws of administration.

This survivorship rule differs slightly when it comes to a property which is jointly owned. Depending on the ownership of the property, it may not form part of the Estate and therefore will not be for the beneficiaries' benefit.

If the property is jointly owned by the deceased and another person as **joint**

**tenants**, the property does not form part of the Estate and is transferred to the survivor like any other joint asset.

If however the deceased owned the property with another person as **tenants in common**, the deceased's share of the property forms part of their Estate.

For example Gerald owned a 6/10 share in a property and his wife Mary owned a 4/10 share (as tenants in common). Upon his death, Gerald's 6/10 share formed part of his Estate and was distributed in accordance with his Will (half to Mary and half to his children). As Mary wanted to continue living in the property, all of the beneficiaries agreed to Mary buying their 3/10 share. A registered valuation was then obtained to determine the value of the share and Mary paid this amount to the beneficiaries in consideration of the ownership being transferred into her sole name.

If Gerald and Mary owned the property as joint tenants, Mary would have been entitled to transfer the ownership solely into her name without the beneficiaries being entitled to a share.

Should you have any further Estate queries, please do not hesitate to contact the Collins & May Law Team.

**20 MINUTE FREE**

**WANT to review your Family Trust structure?  
THEN call us and take advantage of our 20 Minute Free interview**