

Real Property Law

Co-Ownership

- R later demanded a higher price but H died before the negotiations finished
- held that H effectively severed the JT before his death and his estate was entitled to half-share in the proceeds of the sale of the property (i.e. no ius accrescendi and his half did not go to her)

3) course of dealing (mutual conduct)

- severance under this head doesn't require any express act of severance/agreement/declaration of trust
- all that is required is a consensus between the joint tenants arising in the course of dealing with the co-owned property
- i.e. where spouses who are joint tenants of property negotiate with one another for some arrangement of their interests on divorce, husband and wife entered into a separation agreement whereby their jointly owned matrimonial home would be sold and the proceeds were split equally between them. This was held to be sufficient to sever the joint tenancy.
- declaration by one part of an intention to sever will not suffice

Other methods not laid down in **William v Hensman**

1) derived from the common law: acquisition of an additional estate in the land

- where a joint tenant subsequently acquires an additional estate in the land, the unity of interest between himself and the other joint tenants is destroyed and the joint tenancy is severed
- eg if land is granted to X, Y, and Z as joint tenants for life, with remainder to R in fee simple, and Y acquires the fee simple from R, Y's life estate will be merged in the fee simple and the joint tenancy will be severed, X and Z are left as joint tenants inter se

2) derived from statute: severance by written notice (only applied in the UK)

- Section 36(2) of the Law of Property Act 1925 (UK) provided a new method of severance of a beneficial joint tenancy, by a joint tenant giving notice in writing to the other joint tenants of his desire to sever
- this method has been introduced in Barbados and Belize
- it is a convenient method of severance because it may be unilateral
- no consent is required from the other joint tenants
- not necessary for the notice to have actually been received by the other tenant