

JUDICIAL PARTITION OF REAL PROPERTY UNDER TEXAS LAW: A PRIMER

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OVERVIEW

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PARTITION DEFINED

- A division of land according to quantity and value
- Partition involves the act by which co-owners cause property to be divided into as many shares as there are owners, and which vests in each owner a specific part of the property with the exclusive right to possession, free from others, who previously had equal right to possession

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PURPOSE OF A PARTITION SUIT

Compulsory division of the property between the several co-owners according to their respective interests, in order that the property may be owned, possessed, and enjoyed severally

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EFFECT ON TITLE

DOES NOT:

- Affect title

DOES:

- Leave title as it was (but does affect right to possession)
- Segregate the rights of owners
- Provide each co-owner the exclusive use and occupancy of allotted portion
- Provide right to dispose of the partitioned share as that owner sees fit

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EFFECT ON OUTSTANDING RIGHTS

- Conditions and covenants that applied to the property prior to partition remain
- Each owner takes his portion subject to all existing easements
- Liens and encumbrances do not impede the right to partition

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