

**Jones farm has** tillable land/farm buildings and two separate parcels with houses; elderly farmer Jones does not expect to live long but for now lives in house 1 with his sister, who has come to help care for him, and her slacker divorced son has been living in house 2. Jones sells the farm portion and the houses to young neighboring farmer Smith, but reserves an ordinary life estate for Sister in house 1 and a life estate *pur autre vie* (based on Sister's life) for Nephew in house 2. Smith has the remainder interest in both houses. Consider these scenarios:

Jones dies, and shortly afterwards Sister dies. Sister has written a will leaving her interest in house 1 to her other, more responsible son. That provision of her will is meaningless; on her death full fee simple ownership of house 1 immediately goes to Smith, who has the remainder claim. And at that time Smith also gets full fee simple ownership of house 2. Nephew must move out (or maybe pay rent to Smith) because his interest terminates at Sister's death.

Jones dies, and Sister decides to move nearer to her other son. Nephew gets to stay in house 2 as long as Sister is alive. Sister can sell her interest in house 1 – but any buyer gets only the right to occupy house 1 in a non-wasteful, owner-like manner for as long as Sister lives (then the remainder interest immediately goes to Smith).

Sister moves away and rents house 1 to a tenant. Nephew loves the rural environment and stays in house 2, but one day is killed in a snowmobiling accident. He has written a will leaving to his daughter all of his earthly possessions. Daughter inherits the right to occupy house 2 in a non-wasteful, owner-like manner for as long as her grandmother, Sister, lives; then the remainder interest goes to Smith. [Same outcome if Nephew dies without a will but has no heirs other than Daughter.]

Note that Sister can sell or give away the right to make non-wasteful, owner-like use of house 1 for as long as Sister remains living (an ordinary life estate is A), but her rights to house 1 terminate at the moment of her death so there is nothing to leave in a will and nothing to pass to her heirs if she dies without a will (it is not D and D). Nephew can sell, give away, or leave in his will the right to make non-wasteful, owner-like use of house 2 for as long as Sister remains living (a life estate *pur autre vie* is A, D, and D).

**Brothers A, B, and C inherited** a cabin from their aunt when they were all young and single; they are joint tenants with right of survivorship because that is what the deed from the estate's executor specified, and they have not taken any steps to change the joint tenancy status. Now each is married, and each has a will leaving all of his earthly belongings to his wife. Consider these scenarios:

The three are coming home from fishing over the weekend and are hit by a train; A and B survive, but C is killed. The cabin now is owned by A and B as joint tenants, each with a  $\frac{1}{2}$  interest; Mrs. C gets nothing (C's interest in the cabin passed to his joint tenants at the moment of his death, so there was nothing to transfer in his will).

The three are hit by a train; A survives but B and C are killed. A now owns the cabin as a sole owner ("tenant in severalty"); Mrs. B and Mrs. C get nothing. Same ultimate result would hold if A and B survived first train wreck (A and B own as joint tenants) and then the two got hit by same train a year later, with B killed and A surviving.

C moves to another part of the country and can no longer visit the cabin regularly; he sells his  $\frac{1}{3}$  interest to their married cousin D who loves to fish. Now A and B are joint tenants with respect to each other, owning the cabin with D as their tenant in common (D got her interest at a later date than A and B; she can not be their joint tenant because there is no unity of time). [D has a will that leaves all her worldly possessions to her husband.]

The three are coming home from fishing over the weekend and are hit by a train; A and D survive but B is killed. The cabin now is owned by A and D as tenants in common, with A holding a  $\frac{2}{3}$  interest and D a  $\frac{1}{3}$  interest; Mrs. B gets nothing.

The three are hit by a train; A survives but B and D are killed. The cabin now is owned by A and Mr. D as tenants in common, with A holding a  $\frac{2}{3}$  interest and Mr. D a  $\frac{1}{3}$  interest; Mrs. B gets nothing.

The three are hit by a train; B and D are killed on impact, A survives for two weeks but then dies. The cabin now is owned by Mrs. A and Mr. D as tenants in common, with Mrs. A holding a  $\frac{2}{3}$  interest and Mr. D a  $\frac{1}{3}$  interest; Mrs. B gets nothing.

Finally, return to the case in which B and C are killed and sole owner is A, who is widowed but recently re-married. His new wife has no will, and no surviving relatives other than a niece she dislikes and rarely sees. A takes the new Mrs. A to his lawyer to make Mrs. A his joint tenant in the cabin, with the plan to return to the lawyer a few days later to create a will in which A's son A Jr. inherits all his stepmother Mrs. A's worldly belongings. But a train hits their car on the way home from the first lawyer visit; A dies on impact and Mrs. A dies two weeks later without ever completing a will. The cabin is owned by Mrs. A's niece (stepchildren do not inherit under intestate succession). •