



Season 2 Episode 5—Selling Without Consensus: Rights, Risks, and Remedies

December 18, 2025

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You're live with *On the Heir*, where the airwaves are buzzing with stories of land, legacy, and lineage. I'm your host, Jamie, and today we're tackling a situation that many families find stressful: what happens when one heir wants to sell their share of property without everyone else's agreement?

Whether it's a family farm, a timber tract, or a homestead that's been in the family for generations, the sale of an undivided interest can have major consequences.

Today, we'll break down the rights each heir has, the legal remedies available, the risks involved, and practical steps to protect your land and your legacy.

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Let's start with the basics.

If you own an *undivided interest* in heirs property, you technically DO have the right to sell your portion — but it's not that simple.

An undivided interest means you own a *percentage of the whole property*, not a specific parcel.

So, here's what that means in practice:

- A buyer could purchase your share, but they can't automatically force access or use of the whole property.
- Your co-owners still have rights over the land's use, which can create conflicts if one heir wants to develop or sell the property outright.
- Courts may get involved if disputes arise, often through what's called a *partition action*, which can either physically divide the land or sell it at auction.

It's also important to distinguish between *selling undivided interest* and *selling a parcel with a clear deed*. Clear title gives exclusive rights to a defined portion, while undivided interests involve shared ownership.

Many heirs don't realize that selling their share without clarity can trigger legal and financial consequences for the whole family.

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So, what are some of the risks of selling without consensus? Selling without consensus carries some *major* risk.

Loss of control over the property.

Once a share is sold, the new owner may influence decisions or even push for a partition.

Court-ordered partitions.

A buyer might file a lawsuit requesting either a division of land or a forced sale — sometimes resulting in a public auction.

Reduced financial returns.

Property sold at auction may fetch far less than its true market value, which can hurt all co-owners.

Family conflict.

Disputes over property often become personal, affecting relationships between heirs for *generations*.

Could you imagine not speaking to someone years down the line just because of a disagreement from a couple of your elders? Real world examples show how quickly a well-intentioned decision can spiral.

In one case, a single heir sold their share to a developer without telling anyone else.

The developer filed a partition suit, and after months in court, the land was sold at auction.

That family lost both control and their long-standing connection to the land.

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Understanding these risks isn't just about legal awareness — it's about planning ahead and communicating clearly to prevent unnecessary loss. But there are some legal remedies and protections that you can take.

If a sale happens without full agreement, families *do* have legal rights. Some legal rights that families have are:

- **Partition by sale or division:** Courts can order a physical division of the property or a sale it at auction. We'll break down how judges decide which method is fair.
- **Rights of first refusal agreements:** Families can create agreements giving co-owners the first opportunity to buy a share before it's sold externally.
- **Mediation and family agreements:** Lawyers, mediators, or Extension professionals can help families resolve disputes without going to court. Yes, that means that you have to talk to your family. We covered this in season 1, remember?
- **Estate planning:** Creating wills or trusts can clarify ownership before issues arise, reducing the likelihood of unilateral sales.

Now each of these remedies comes with trade-offs. Partition by division may physically split a property in ways that make farming, timber harvesting, or home use impractical.

Auction sales may not reflect the land's true market value. That's why proactive planning is so important.

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Let's talk about some strategies for prevention. Preventing disputes is always better than responding to them.

Here's how families can protect their land:

- **Open communication:** Discuss plans for selling, developing, or maintaining the land.
- **Document agreements:** Even simple written agreements about use, maintenance, and potential sales can prevent future conflicts. Write it down.
- **Shared responsibility:** Make sure taxes, insurance, and maintenance costs are clear and fairly divided.
- **Professional guidance:** Use resources like the *Alabama Heirs Property Alliance* for education, mediation, and other technical support.

The goal isn't to eliminate differences of opinion — but to manage them constructively so that family land and relationships are protected.

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So as we wrap up, ask yourself:

- Are all family members aware of each other's intentions?
- Are agreements in place to prevent unilateral sales?
- What steps can your family take now to reduce the risk of losing land?

If your family isn't sure where to start, the *Alabama Heirs Property Alliance* provides resources, guidance, and referrals to help families navigate these issues. Visit www.aces.edu/go/heirsproperty for more information.

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Thanks for tuning into *On the Heir*. Be sure to subscribe. Leave a review and share your thoughts. Together, we'll continue exploring the fascinating world of heirs property. One episode at a time. Until next time, protect your land, communicate openly, and safeguard your family's legacy.