

FRENCH SCI : GUIDE FOR PROPERTY MANAGEMENT

The detention by several persons of a property through an SCI avoids the disadvantages of a joint ownership scheme under which the heirs of an estate are subjected, or the non-married couples in the case of a real estate property bought in common.

Joint ownership does not offer the adequate conditions for a good management, both quiet and effective.

Operating a joint ownership is cumbersome due to the complexity of the decision making process. For instance, a joint ownership requires the approval of a majority of two thirds of the owners for decisions such as :

- To grant a general power of administration to one of the owner or to a third party,
- The opportunity to lease the property, or part of the property,
- The sale of jointly owned furnitures to meet the expenses or debts of the ownership,

Even more restrictive are the adoption of so-called "disposition" decisions that require the unanimity of the joint owners. These are decisions exorbitant of the daily administration and maintenance of the property.

For these important decisions, each owner has a right to veto the other owners. Under these conditions, obstructions are common and can only be removed by recourse to the courts.



Not only difficult to manage, joint ownership is also precarious and poorly adapted to a long-term project. As no one can be held into a joint ownership against its own will, any owner may, at any time, request the division/separation and partition of the property. In the event of a disagreement within the ownership, the judge will proceed to the sale of the property at an auction hearing called " bidding ".

The threat inherent to the joint ownership can be framed in a lesser degree by writing an ownership agreement. As in any contract, the owners can organize a little more freely their relationship into the ownership.

Thus, this agreement can prohibit the owners from ending the ownership before a predetermined period, limited to five years by law. If no duration is specified in the ownership agreement, the joint owners are in the same situation than in the absence of ownership, ie they can apply for partition at any time.

This agreement also requires to be drafted by a notary public and need to be registered, causing to pay fees and costs which are much higher than the one suffered for the incorporation of an SCI.

In contrast, indeed, an SCI offers flexible terms of administration of the property. In an SCI civil, powers are shared between the management body (the "gérance") and the shareholders' assembly (the "assemblée des associés") :

- The Manager (the "gérant") is responsible for the maintenance, building and repair works, for rentals ...
- The shareholders' assembly determines the power of the manager, controls the fulfillment of its missions, and intervene for important decisions such as the sale of the property or part of the property.

Approved by all the owners, the articles of association of the SCI enable to anticipate the major evolution wished for the property , such as :



- its rehabilitation
- its enlargement
- its sale

The articles of association somehow enact the rules within the SCI, and determine the rights and obligations of each owner. They frame the contours of the manager's powers, and his degree of autonomy.

They are indeed free to give him more or less autonomy, depending on the type of decisions to be made, the amount above which a prior consent is required, the competence of the manager, the degree of involvement of the owners, or any other criteria determined in advance.

For example, the owners may decide that the manager may only undertake work, maintain the local, sign a lease, borrow on behalf of the SCI, but also decide that the sale of the property held by SCI, or its mortgage, require the unanimity of the ownership, or any majority set at the moment of the signature of the articles of association.

