Tenancy in “Anticommoms”? A Theoretical and Empirical Analysis of Co-ownership

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Motivation

Tenancy in common:
• Tragedy of the commons? No!
• Tragedy of the anti-commons? No!
• Loss of Black farms? Misunderstood.

Theoretical arguments

Better framework
• Fragmentary share problem
• Underuse and underinvestment = anticommoms
• But NOT tragic
• Unilateral partition right as the escape hatch
• Fragmentary land problem
• Conditions
• Small size of co-owned land
• Large number of co-tenants
• Physical division

Empirics: Data

• Data 1:
  – Taiwan, 2005 – 2010
  – All registrations of partition by consensus, mediation, settlement, or adjudication
  – Not including: partitions by sale
  – N>56,000
• Data 2:
  – all district court verdicts in Taiwan, 2005 – 2010
  – N=6790
• Data 3:
  • Stratified random sample of 25% of all district court verdicts in Taiwan in 2008–2010.
  • N=619.
• Data 4:
  • Distribution of the # of co-owners on Feb.11, 2011 in Taiwan
  • N>17 million

Does cooperation among co-tenants often fail?

Empirical Strategy

Partition approaches
- Divide
- Sell
- Hybrid

---Cooperation: partition by consensus
---Non-cooperation: partition by court

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<th>Partition methods</th>
<th>Voluntary</th>
<th>Involuntary</th>
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<td>Divide</td>
<td>Partition in kind by consensus</td>
<td>Partition in kind by court</td>
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<td>Sell</td>
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<td>Hybrid</td>
<td>Partial partition by consensus</td>
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Non-cooperation

Consensus: 50085 (87.4%)
Mediation: 2822 (4.9%)
Settlement: 792 (1.4%)
Verdict: 3627 (6.3%)

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Partition in kind
- In kind partition
- In kind+co-own
- In kind+compensation
- In kind+exchange
- Partial partition
- Partial partition by sale

Multinomial logistic regression models

Dep. var.: choice among partition by sale, partition in kind, and partial partition.

---Whether the court / plaintiff tends to choose partition by sale when “co-tenant’s / plaintiff’s minimum land size” is small.

The court model

The plaintiff model

Empirical Strategy

Partition in kind and partial partition of co-owned land

 computed number. Estimated number. Assumed number.

Cooperation rate = 82.5% = 50085 / 60726

Non-cooperation rate = 7.5% = 4489 / 60726

Partition in kind and partial partition of co-owned land

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Zoning dummies
- Yes
- No

Pseudo R-Square

Consensus: 0.5060
Settlement: 0.4144
Verdict: 0.396

Analysis of co-owners of land on the day of Feb. 11, 2011 (N=17,457,684)

Litigating co-owners from Jan. 1, 2005 to Oct. 4, 2010 (N=6,790)