

# ACT ON SPECIAL CASES CONCERNING THE PARTITION OF CO-OWNED LANDS

Act No.7037, Dec.31,2003

## CHAPTER I GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to solve the inconvenience contingent to an exercise of ownership and a use of land, and to ensure the propriety of land controlling system, by making any partition of co-owned land possible through simple procedures on the basis of the current state of occupation.

### Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "cadastral record" means the cadastral record as provided for in subparagraph 1 of Article 2 of the Cadastral Act;
2. The term "competent authority" means the competent authority as provided for in subparagraph 2 of Article 2 of the Cadastral Act;
3. The term "co-owned land" means a parcel of land registered in the registry under the names of two or more owners, and from among a group of lands where the housing, incidental facilities and welfare facilities are built after obtaining an approval of project plans as referred to in Article 16 of the Housing Act, the respective lands managed severally by dividing into the roads that are urban planning facilities and other similar facilities;
4. The term "cadastral survey result" means the survey result that is registered in the original survey map, the area measurement book and the survey book that are produced by performing a cadastral survey; and
5. The term "interested party" means a person who has registered other rights than ownership in the registry of co-owned land subject to partition (excluding the rightful claimants of seizure, provisional seizure or provisional disposition).

### Article 3 (Objects of Application)

(1) The lands subject to partition as referred to in this Act shall be the co-owned lands (including several parcels of co-owned lands that are mutually contiguous, and each parcel of land is owned by the same coowner) on which one-third or more of gross number of co-owners occupy the land for not less than one year with specifying the portion of land equivalent to their own shares, by means of possessing the building on the said ground surface (including the case where letting a

third party own the building).

(2) In calculating the term of occupation as referred to in paragraph (1), if there is any succession to the occupation, the term of occupation by a person causing the succession shall be deemed to be the term of occupation by the successor.

(3) The land falling under any of the following subparagraphs shall not be allowed to be partitioned as referred to in this Act:

1. The land, in its legal proceedings against partition of co-owned objects or those equivalent thereto, there has been a judgment on the partition of co-owned objects or on the purport equivalent thereto, or a litigation against thereto is pending in the court; and
2. The land, on which an agreement has been reached to promise that no partition shall be made pursuant to the proviso of Article 268 (1) of the Civil Act.

#### **Article 4 (Taking Charge of Affairs)**

The competent authority shall take charge of affairs of the partition of the co-owned land as referred to in this Act.

#### **Article 5 (Principle of Partition)**

(1) The partition of the co-owned land as referred to in this Act shall be made on the basis of a current state of occupation by each co-owner: *Provided*, That if an agreement has been reached between the co-owners occupying the portion of lands that are mutually contiguous, to promise that partition shall be made differently from the said state of occupation (referring to an agreement including the liquidation money from relevant partition; hereafter in this Article, the same shall apply), the partition shall be made pursuant to the said agreement.

(2) Of the co-owned land, if an agreement has been reached between the relevant co-owners on the portions for which an occupying part is not specified, or whether the specification is unclear or not, the partition shall be made pursuant to the said agreement.

(3) The partition of the co-owned land as referred to in this Act shall be made in kind. In this case, the partition with a compensation of value shall be included.

#### **Article 6 (Relations with Other Acts)**

In making the partition of co-owned land as referred to in this Act, the provisions concerning restrictions on the partition of land as prescribed in the Acts of the following subparagraphs, shall not be applied:

1. Article 56 (1) 4 of the National Land Planning and Utilization Act;
2. Article 49 of the Building Act; and
3. Articles 8 and 19 of the Act on the Ownership and Management of Aggregate Buildings.

#### **Article 7 (Limitation, etc. of Co-owners and Interested Parties)**

(1) In the procedures after a decision on commencing the partition as referred to in Article 16 (1),

the co-owners and interested parties shall be limited to the co-owners and interested parties entered in the registration of a decision on commencing the partition as referred to in Article 17: *Provided*, That the same shall not apply to the case where the co-owners or interested parties who acquired the rights after the registration of a decision on commencing the partition, have filed a report by verifying the said right.

(2) A person who has acquired a right by succession as referred to in the proviso of paragraph (1) shall succeed to the position of a person who has caused the succession in the partition procedures.

#### **Article 8 (Special Cases concerning Service of Document)**

(1) In the service of a notice to the co-owners or interested parties, and of other documents, such a service shall be deemed to have been made on the day on which one week elapsed from the date of forwarding the document by registered mail to the address of the co-owners or interested parties on the registry (where another address was reported to the competent authority, such a reported address).

(2) In a case of paragraph (1), if a service of document is impossible due to a return of the mail or a reason of unknown address, etc., such a service shall be deemed to have been made on the day on which the period is expired when the said document is posted for two weeks on a bulletin board of the office under jurisdiction of the competent authority.

### **CHAPTER II CO-OWNED LAND PARTITION COMMITTEE**

#### **Article 9 (Co-owned Land Partition Committee)**

In order to make a fair deliberation and resolution on the matters concerning partitions of co-owned land, the Co-owned Land Partition Committee (hereinafter referred to as the "Committee") shall be established in the competent authority.

#### **Article 10 (Organization of Committee)**

(1) The Committee shall be composed of nine commissioners including one chairman and one vice-chairman.

(2) Any person who is listed on each of the following subparagraphs shall become a commissioner of the Committee:

1. One judge nominated by the chief judge of the competent district court;
2. Two public officials of Grade V or higher belonging to the competent authority;
3. One registration officer nominated by the chief judge of the competent district court;
4. The head of *Eup/Myeon/Dong* of the corresponding districts;
5. Two persons commissioned by the competent authority, who are the lawyers and other persons of profound legal knowledge; and
6. Two persons commissioned by the competent authority, who are the residents of the concerned

region being well-grounded in legal knowledge.

(3) The chairman shall be the judge who is a commissioner, and the vicechairman shall be the person designated by the competent authority from among the commissioners.

(4) An executive secretary who is not a commissioner, shall be assigned in order to deal with the administrative affairs of the Committee.

(5) Commissioners who are not the public officials among commissioners of the Committee shall be regarded as the public officials in applying the penal provisions of the Criminal Act and other Acts.

(6) Matters necessary for the appointment, removal and exclusion of commissioners and the organization, operation and meeting, etc. of the Committee shall be prescribed by the Presidential Decree.

#### **Article 11 (Function of Committee)**

(1) The Committee shall take charge of the following matters:

1. Decision on commencement or dismissal of the partition as referred to in Article 16 (1);
2. Decision on dismissal and on revocation of decision on commencing partitions as referred to in Article 18;
3. Resolution on a protocol of partition as referred to in Article 26 (1);
4. Decision on whether or not admitting an objection raising as referred to in Article 31;
5. Resolution as referred to in Article 32 (4); and
6. Other matters as prescribed by the Presidential Decree.

(2) When the Committee deems it necessary for a deliberation in order to make decisions, etc. as referred to in paragraph (1), it may conduct an investigation on the facts *ex officio* or by an application of co-owners or interested parties, or demand the applicants or the interested parties to submit the necessary documents, and may have the public officials belonging to the competent authority conduct an investigation on the facts.

#### **Article 12 (Decision, etc. of Committee)**

(1) The decision or resolution of the Committee concerning Article 11 (1) 1 through 5 shall be made in writing by the consent of a majority of the incumbent commissioners.

(2) The written decision or the written resolution as referred to in paragraph (1) shall contain the text, reasons for the decision or resolution, date of the decision or resolution, and the names of commissioners participating in the decision or resolution, and all commissioners participating in the decision or resolution shall affix their signatures and seals thereon: *Provided*, That if there are commissioners who refuse to sign and seal, or have an inevitable reason for being unable to sign and seal, the signatures and seals of relevant commissioners may be omitted, and only the reasons therefor may be entered thereon.

(3) When the Committee has an inevitable reason for being unable to make a decision within the decision period as referred to in Articles 16 (1), 18 (4) and (5), 31 (1), it may extend the said period after going through a resolution by itself.

**Article 13 (Perusal, etc. of Document)**

(1) Co-owners and interested parties may make a perusal of the document concerning partition of the co-owned land, and attend the Committee to state their opinions, or submit the required evidential documents, under the conditions as prescribed by the Presidential Decree.

(2) Co-owners or interested parties may request the competent authority to issue a certified copy of a document concerning partition of the co-owned land at their own expense, under the conditions as prescribed by the Presidential Decree.

**CHAPTER III COMMENCEMENT, ETC. OF PARTITION**

**Article 14 (Application, etc. for Partition)**

(1) Co-owners may apply for partition of co-owned land to the competent authority by obtaining the consent of not less than one fifth of the total number of co-owners or of 20 or more co-owners, under the conditions as prescribed by the Presidential Decree. In this case, the applicant shall be included in the number of co-owners, who are to give their consent.

(2) The validity of an application for partition as referred to in paragraph (1) shall not be affected by the death of an applicant or a person giving consent, or the transfer of his shares, or the withdrawal of consent.

(3) An application for partition as referred to in paragraph (1) shall not be allowed to withdraw after there has been a decision on commencing partition as referred to in Article 16 (1): *Provided*, That the same shall not apply to the case where all applicants and all persons giving their consent (where there exists a succession to the co-owned share of an applicant or of a person giving consent, referring to the relevant successor) have agreed thereon.

(4) When there exist several applications for partition, with regard to the same co-owned land, these may be jointly processed.

(5) The provisions of paragraphs (1) and (2) shall apply *mutatis mutandis* to filing an application for partition in case where the co-owners of respective parcel of land among several parcels of mutually contiguous lands, intend to make partition by joining the same group of lands,

**Article 15 (Reference to Committee)**

(1) When there exists an application for partition as referred to in Article 14 (1), the competent authority shall investigate the status of occupation of relevant co-owned land within five weeks, and other data necessary for judging whether or not being the land subject to partition as referred to in Article 3, and refer them to the Committee together with the written application.

(2) In referring to the Committee the result of investigation as referred to in paragraph (1), the competent authority may submit a written opinion on its deliberation and decision on commencing the partition.

**Article 16 (Decision on and Public Notice of Commencing Partition)**

(1) When the Committee has received a reference of the written application as referred to in Article 15 (1), it shall deliberate on it within five weeks, and make a decision on commencing or dismissing the partition.

(2) When the Committee has made a decision on dismissal as referred to in paragraph (1), the competent authority shall promptly serve an authentic copy of the said written decision to the applicant.

(3) When the Committee has made a decision on commencing partition as referred to in paragraph (1), the competent authority shall promptly serve an authentic copy of the said written decision to each co-owner, notify the interested party of its purports, and make a public notice thereof for not less than three weeks under the conditions as prescribed by the Presidential Decree.

(4) When the Committee has made a decision on commencing partition, the competent authority shall promptly entrust a registration of the decision on commencing partitions to the register office having jurisdiction over the location of relevant co-owned land, by appending to the written entrustment a certified copy of the written decision on commencing partition.

**Article 17 (Registration, etc. of Decision on Commencing Partition)**

A registration official in receipt of an entrustment of the registration as referred to in Article 16 (4) shall promptly enter it on the registry, and the head of competent register office shall notify the competent authority thereof.

**Article 18 (Raising of Objection, etc. to Decision on Commencing Partition)**

(1) Co-owners having an objection to the decision on commencing partition as referred to in Article 16 (1), may raise an objection in writing to the competent authority within three weeks from the date of serving an authentic copy of the said written decision. In this case, the competent authority shall promptly refer the raising of objection to the Committee.

(2) The raising of an objection as referred to in paragraph (1) shall be limited to any of the following subparagraphs:

1. In a case of the assertion to the effect that the land subjected to a decision on commencing partition is not the object of any partition of co-owned land as referred to in Article 3 (including the case where a lawsuit for partition of co-owned objects or a lawsuit equivalent thereto has been instituted for the purpose of partition of the relevant co-owned land, before raising an objection in the wake of an application for partition);
2. In a case of the assertion to the effect that the application for partition fails to satisfy the

requirement as referred to in Article 14 (1);

3. In a case of intending to partition the relevant co-owned land by a lawsuit for partition of co-owned objects or a lawsuit equivalent thereto;

4. In a case of the assertion to the effect that the procedures for a decision on commencing partition taken by the Committee have violated this Act; and

5. In a case of the assertion to the effect that the partition pursuant to this Act is significantly opposed to equity.

(3) A demurrant pursuant to paragraph (2) 3 shall institute a lawsuit against all remaining co-owners within three weeks from the date of raising such an objection. In this case, he shall submit to the competent authority a duplicate of the written complaint and a certificate of instituting a lawsuit.

(4) In case where any raising of an objection as referred to in paragraph (2) 1, 2, 4 or 5 is deemed to be not sustainable, or in case where a demurrant as referred to in paragraph (2) 3 fails to institute a lawsuit within the period of paragraph (3), the Committee shall make a decision on a dismissal within five weeks from the date of raising the relevant objection.

(5) In case where any raising of objection as referred to in paragraph (2) 1, 2, 4 or 5 is deemed to be sustainable (with regard to a raising of an objection as referred to in paragraph (2) 2, referring to the case where the deficiency of the requirements as referred to in Article 14 (1) has not been corrected until the time when a decision is made thereon), or where there exists an institution of a lawsuit as referred to in paragraph (3), the Committee shall make a decision on revocation of decision on commencing partition within five weeks from the date of raising the relevant objection. In this case, the Committee shall hear in advance the opinion from the person filing an application for partition.

(6) When the Committee has made a decision on a dismissal as referred to in paragraph (4), the competent authority shall promptly serve an authentic copy of the written decision to the demurrant.

(7) When the Committee has made a decision on a revocation of the decision on commencing partition as referred to in paragraph (5), the competent authority shall promptly serve an authentic copy of the written decision to each co-owner, and notify the interested parties of the relevant purports. In this case, the reasons therefor shall be publicly notified under the conditions as prescribed by the Presidential Decree.

(8) When the Committee has made a decision on a revocation of the decision on commencing partition, the competent authority shall promptly entrust the deletion of a registration of the decision on commencing partition as referred to in Article 17 by appending a certified copy of the relevant written decision.

#### **Article 19 (Dissatisfaction with Decision on Dismissal of Raising Objection)**

(1) The demurrant dissatisfied with the decision on dismissal as referred to in Article 18 (4) may

institute a lawsuit for an objection against the applicant for partition to the competent court within three weeks from the date of receiving an authentic copy of the relevant written decision: *Provided*, That the same shall not apply to the case where the demurrant as referred to in Article 18 (2) 3 fails to institute a lawsuit as referred to in Article 18 (3) within the said period.

(2) Where the court deems that the lawsuit as referred to in paragraph (1) is sustainable, it shall render the judgment to revoke the decision on commencing partition as referred to in Article 16.

(3) The provision of Article 18 (7) (excluding the matters concerning a service of an authentic copy of the written decision) and (8) shall apply *mutatis mutandis* to the time when there is a finalized judgment to revoke the decision on commencing partition pursuant to paragraph (2).

#### **Article 20 (Dissatisfaction with Decision, etc. on Dismissal of Application for Partition)**

(1) The demurrant dissatisfied with the decision on dismissal of application for partition as referred to in Article 16 (1) or the decision on revocation of the decision on commencing partition as referred to in Article 18 (5), may institute a lawsuit to seek a commencement of partition against all remaining co-owners to the competent court within three weeks from the date of receiving an authentic copy of the written decision.

(2) The provisions of Article 16 (3) (excluding the matters concerning a service of an authentic copy of the written decision) and (4) shall apply *mutatis mutandis* to the time when there is a finalized judgment of commencing partition in the lawsuit instituted as referred to in paragraph (1).

#### **Article 21 (Settlement of Commencement of Partition)**

(1) The decision on commencing partition shall become conclusive in cases falling under any of the following subparagraphs:

1. Where there is no raising of an objection within the period as referred to in Article 18 (1);
2. Where failing to institute a lawsuit of objection within the period as referred to in Article 19 (1);
- or
3. Where there is an irrevocable judgment of dismissal in the lawsuit of objection as referred to in Article 19 (1).

(2) Co-owners, in case of paragraph (1) and where there is a finalised judgment of commencing partition in the lawsuit instituted as referred to in Article 20 (1), shall not be allowed to make an assertion that the partition shall be made by other methods than the partition as referred to in this Act: *Provided*, That the same shall not apply to the case where there is an agreement by all coowners.

## **CHAPTER IV CADASTRAL SURVEY AND PROTOCOL OF PARTITION**

#### **Article 22 (Investigation and Cadastral Survey)**

(1) When the decision on commencing partition becomes finalized as referred to in Article 21 (1), or there is a finalized judgment of commencing partition in the lawsuit as referred to in Article 20 (1), the competent authority shall investigate or survey the following matters:

1. Current status of co-owned shares by co-owners, and interests involved therein;
2. Occupied areas and boundary lines by co-owners, and current status of other occupations;
3. Current status of private roads, and of other portions actually offered for public use (hereinafter referred to as the "private roads, etc."); and
4. Other matters necessary for the partition and liquidation, etc.

(2) When deemed necessary for performing the investigation and cadastral survey as referred to in paragraph (1), the competent authority may demand the co-owners or occupants to submit the data, or perform the investigation on facts.

(3) In performing the investigation and cadastral survey as referred to in paragraph (1), the competent authority shall notify in advance each co-owner or occupant and the interested parties of the date thereof and the purport that they may participate in the investigation and cadastral survey and state their opinions thereon.

#### **Article 23 (Investigation and Survey of Current Status of Occupation by Co-owners)**

(1) In performing the investigations or surveys on the matters under Article 22 (1) 2, it shall be based on a fence and other boundaries of current occupation, but where there is an agreement as referred to in the proviso of Article 5 (1) or 5 (2), the investigation or survey shall be performed in accordance with the said agreement.

(2) The portion of land jointly occupied by two or more co-owners shall be surveyed by deeming it to be a parcel of land.

(3) Where it is uncertain, as a result of investigation of current status of occupation by each co-owner, whether or not the occupied portion is specified, or where only the portion occupied by part of co-owners is specified, the competent authority may demand the co-owners of said uncertain portion or unspecified portion to make an agreement as referred to in Article 5 (2), with fixing the period therefor.

(4) When the agreement has been reached as referred to in paragraph (3), the cadastral survey shall be performed in accordance with the said agreement, and when the agreement has not been reached, the relevant portion of land shall be surveyed by deeming it to be a parcel of land.

(5) In the cases of paragraphs (1) through (4), the portion of land that is caused by the co-owner to be occupied by a third party shall be deemed to have been occupied by the said co-owner.

#### **Article 24 (Investigation or Survey of Private Roads, etc.)**

(1) The private roads, etc. shall be regarded as being jointly occupied by the co-owners who occupy a portion of land actually utilized for their benefits (including the persons who are to use the

relevant private roads, etc. after receiving allotments of portions of land as referred to in Article 25; hereinafter the same shall apply), and shall be surveyed independently: *Provided*, That if there exists an agreement by the whole of the said co-owners, the survey may be performed by allocating them to the occupied portion of each co-owner pursuant to the said agreement.

(2) Of the private roads, etc., the portions that are in fact apparently utilized for the benefits of a portion of lands occupied by one person from among the co-owners, shall be surveyed by allocating them to the said occupied portion by deeming that they have been occupied by the said co-owner.

(3) In performing the survey as referred to in paragraphs (1) and (2), the competent authority shall investigate and verify the matters falling under each of the following subparagraphs, by taking account of the location and current status of private roads, etc., the location and doorways of the building, current status of the public roads, and other peripheral situations:

1. Whether the relevant private roads, etc. are actually utilized only for the benefits of portion of land occupied by part of co-owners, etc., or are utilized for the benefits of portion of land occupied by the whole of co-owners; and
2. Whether there are persons falling under any of the following items, or if there are such persons, whether there are any areas deemed to be included in private roads, etc. from among the areas falling under the said co-owned shares:
  - (a) A co-owner who has no actual occupied portion, and who is an original landowner having made a dispersed sale of the said original co-owned land or his successor; and
  - (b) A co-owner who occupies a specific portion of co-owned land, and who is an original landowner having made a dispersed sale of part of the said original co-owned land or his successor.

#### **Article 25 (Survey of Portion of Land without Occupier)**

(1) Of the co-owned lands, the portion of land having no co-owner occupying it or being occupied by a third party without any title (excluding the private roads, etc.) shall be surveyed in one parcel or several parcels pursuant to its current status, by deeming it to be jointly occupied by the co-owners falling under each of the following subparagraphs: *Provided*, That if there is an agreement by the whole of such co-owners, the survey may be performed by allocating to each co-owner pursuant to the said agreement:

1. A co-owner who has no actual occupied portion; or
  2. A co-owner whose actual occupied portion falls short of the area equivalent to the relevant co-owned shares.
- (2) A co-owner falling under any item of Article 24 (3) 2, and who is a co-owner whose entire areas equivalent to the said co-owned shares (in the case of Article 24 (3) 2 (b), the balance areas between the actual occupied area and the area equivalent to the said co-owned shares) are deemed

to be included in the private roads, etc., shall be excluded from the co-owners falling under each subparagraph of paragraph (1).

#### **Article 26 (Preparation of Partition Protocol)**

(1) When the competent authority has completed the investigation and survey as referred to in Articles 22 through 25, it shall promptly prepare a protocol of partition, and refer it to the Committee and obtain a resolution thereon.

(2) Matters falling under each of the following subparagraphs shall be entered in the protocol of partition as referred to in paragraph (1):

1. Current status of co-owners, co-owned shares of each co-owner and the area equivalent thereto, and the details of interests thereon held by the interested parties;
2. The area of land to be distributed to each co-owner that has been investigated and surveyed as referred to in Articles 22 through 25, and other current status and the provisional parcel number for the portions to be partitioned;
3. The portions to be partitioned into the private roads, etc. independently, and the provisional parcel number for them;
4. The results of cadastral survey;
5. Where there are reasons as referred to in Article 40 (1), the matters concerning the relevant liquidation; and
6. Matters concerning the partition costs as referred to in Article 43 (1).

(3) In describing the matters as referred to in paragraph (2) 2, the portion of land as referred to in Articles 23 (2) and (4) (latter part), and 25 (1) (excluding the case of proviso) shall be regarded as the co-owned land of co-owners, and the ratio of each one's co-owned share and the area equivalent thereto shall be indicated. In this case, the ratio of co-owned share shall be based on the original co-owned share in the portion of land as referred to in Article 23 (2) and (4) (latter part), and the said ratio shall be based on the balance area between the actual occupied area and the area equivalent to the co-owned share in the portion of land as referred to in Article 25 (1).

(4) In describing the matters as referred to paragraph (2) 3, the relevant private roads, etc. shall be regarded as the co-owned land of coowners as referred to in Article 24 (1) (excluding the case of proviso), and the ratio of relevant co-owned share and the area equivalent thereto shall be indicated. In this case, the ratio of co-owned share shall be based on the area of a portion of land for which the private roads, etc. are actually utilized for its benefits.

#### **Article 27 (Description of Matters concerning Liquidation)**

(1) In describing the matters as referred to in Article 26 (2) 5, the following matters shall be indicated:

1. The area for which the land to be partitioned to each relevant co-owner (including the area of

co-owned share as referred to in Article 26 (3) and (4)) exceeds or falls short of the area equivalent to co-owned share on the registry, and the money to be liquidated therefor;

2. The ground for computing the liquidation money as referred to in Article 40 (2); and
3. Where the liquidation money is not paid pursuant to Article 41 (1), the reasons therefor.

(2) In describing the liquidation money as referred to in paragraph (1) 1, if the person who pays or receives the liquidation money and the relevant amount may be specified by each co-owner, including a case where there exists an agreement concerning the liquidation money as referred to in Article 5 (1) (proviso) or (2), they shall be indicated individually.

#### **Article 28 (Calculation of Areas Equivalent to Co-owned Share)**

As a result of survey of the co-owned land, when its actual area is different from the area on the registry in the partition as referred to in this Act, the actual area based on the result of survey shall be regarded as the original area of the relevant co-owned land. In this case, the area equivalent to the ratio of co-owned share of each co-owner to the actual area determined by the result of survey shall be regarded as the area equivalent to the original co-owned share.

#### **Article 29 (Service and Public Notice of Certified Copy of Protocol)**

(1) When a resolution is made on the protocol of partition as referred to in Article 26 (1), the competent authority shall promptly serve a certified copy of the protocol of partition to each co-owner and the interested parties, by appending the document stating the purport that partition and liquidation shall be made in accordance with details of the protocol of partition, and that an objection may be raised as referred to in Article 30, and the time limit thereof.

(2) When a resolution is made on the protocol of partition as referred to in Article 26 (1), the competent authority shall publicly notify the following matters for not less than two weeks under the conditions as prescribed by the Presidential Decree:

1. Indication of relevant co-owned land, and the purport that there exists an application for partition as referred to in Article 14, and a decision on commencing partition as referred to in Article 16;
2. The purport that a protocol of partition has been prepared by going through a resolution of the Committee, and that partition and liquidation shall be made in accordance with the details thereof; and
3. The purport that an objection may be raised as referred to in Article 30, and the time limit thereof.

#### **Article 30 (Raising Objection against Protocol of Partition)**

(1) The co-owners and the interested parties who are dissatisfied with the protocol of partition may raise an objection to the competent authority by the document specifying definitely the reason for objection, within two weeks from the date of service of a certified copy of protocol of partition as

referred to in Article 29 (1). In this case, the competent authority shall promptly refer the written objection to the Committee.

(2) Any raising of an objection as referred to in paragraph (1) shall be limited to the cases where one is dissatisfied with the details of the protocol of partition, including the investigation and survey, adjustment of occupied portions or a preparation of the protocol of partition as referred to in Articles 22 through 27, or the procedure for resolution of the Committee.

**Article 31 (Decision, etc. on Raising of Objection)**

(1) The Committee shall make a decision on whether or not acknowledging a raising of objection as referred to in Article 30 (1) within four weeks from the date of raising an objection. In this case, the competent authority shall promptly serve an authentic copy of the written decision by the Committee to the applicant.

(2) When the Committee makes a decision as referred to in paragraph (1), it shall hear in advance the opinions from the applicants, the involved co-owners and the interested parties.

(3) When the Committee has made a decision on acknowledgment, the competent authority shall amend the concerned portions on the protocol of partition, and promptly serve the amended certified copy of the protocol of partition to the applicant, the involved co-owners and the interested parties.

**Article 32 (Dissatisfaction, etc. with Decision)**

(1) The person who is dissatisfied with the details of decision as referred to in Article 31, may file a lawsuit for objection to the competent court against the whole of co-owners (where the reason for dissatisfaction is related with only part of co-owners, such a lawsuit shall be filed against only the related co-owners) by definitely specifying the reasons therefor within three weeks from the date of receiving an authentic copy of the written decision or a certified copy of protocol of partition. In this case, a duplicate of a written complaint and a certificate of filing a lawsuit for objection shall be submitted to the competent authority.

(2) The lawsuit as referred to in paragraph (1) shall be limited to the causes for objection as referred to in Article 30 (2).

(3) Where an objection against the details of protocol of partition is found sustainable in the lawsuit as referred to in paragraph (1), the court shall pass a judgment on the relevant legal relationship, and where there is any illegality in the procedure for resolution of the Committee, the court shall pass a judgment on revocation of the said resolution.

(4) When the judgment on revocation as referred to in the latter part of paragraph (3) has been made final and conclusive, the competent authority shall promptly refer it to the Committee, and obtain its resolution.

(5) The provisions of Article 31 (3) shall apply *mutatis mutandis* to the time when the final and

conclusive judgment as referred to in the former part of paragraph (3) is passed.

### **Article 33 (Settlement of Protocol of Partition)**

(1) The protocol of partition (referring to the amended protocol of partition, in case where there exist amendments as referred to in Article 31 (3) or 32 (5)) shall be made final and conclusive, in the cases falling under any of the following subparagraphs:

1. Where there exists no raising of objection within the period as referred to in Article 30 (1);
2. Where there exists no filing of the lawsuit for objection as referred to in Article 32 (1); and
3. Where there exists the final and conclusive judgment on the lawsuit for objection as referred to in Article 32 (excluding the final and conclusive judgment as referred to in the latter part of Article 32 (3)).

(2) In any raising of objection as referred to in Article 30 (1) or in the lawsuit for objection as referred to in Article 32 (1), if the details of relevant dissatisfaction are related with the liquidation money or the partition costs as referred to in Article 26 (2) 5 or 6, the protocol of partition with exception of relevant portion of dissatisfaction shall be made final and conclusive.

### **Article 34 (Effect of Partition)**

(1) When the protocol of partition has been made final and conclusive, the relevant co-owned land shall be partitioned in accordance with the details of the protocol of partition, and the rights other than the ownership which exist on the co-owned share shall concentrically exist on the portion of land acquired by the relevant co-owner through partition.

(2) Where a mortgage is established on the co-owned share, the said mortgage may also be exercised on the liquidation money to be received by the co-owner by virtue of the decided protocol of partition. In this case, the liquidation money shall be attached prior to its payment.

(3) Attachment, provisional attachment, and injunction to the co-owned share shall also take effect on the portion of land to be acquired by the co-owner through partition by virtue of the decided protocol of partition and the liquidation money to be received by the co-owner.

(4) The rights other than ownership which exist on the whole of the co-owned land shall not be affected by the partition as referred to in this Act.

### **Article 35 (Effect on Successor of Protocol of Partition and Indication of Successor)**

(1) The decided protocol of partition shall also take effect on the person who has acquired the co-owned share after a registration of the decision on commencing partition as referred to in Article 17, or the interested party who has acquired the rights other than ownership thereon.

(2) When the acquirer of co-owned share or the interested party as referred to in paragraph (1) files a report by verifying the said right, the competent authority shall make an indication of the relevant successor or the new interested party on the relevant protocol of partition.

(3) When deemed necessary to entrust a registration of partition as referred to in Article 37, the

competent authority may ascertain the registry of the relevant co-owned land even if there exists no report as referred to in paragraph (2), and make an indication of the successor or the new interested party as referred to in paragraph (2).

**Article 36 (Adjustment of Cadastral Record)**

(1) When the protocol of partition has been made final and conclusive as referred to in Article 33, the competent authority shall promptly adjust the cadastral record in accordance with the protocol of partition. In this case, with regard to the land having any excess or deficiency in its area as referred to in Article 28, the area on the cadastral record shall be first amended and adjusted.

(2) Where the whole co-owners make an application for partition by appending the written agreement to the effect that no liquidation shall be made, the cadastral record may be adjusted by making the protocol of partition final and conclusive without any resolution on the protocol of partition as referred to in Article 26 after the decision on commencing partition.

**CHAPTER V REGISTRATION OF PARTITION, ETC.**

**Article 37 (Entrustment of Registration of Partition, etc.)**

(1) When the competent authority has adjusted the cadastral record as referred to in Article 36, it shall promptly notify the competent register office of the purport that there was partition as referred to in this Act, and entrust the registration of partition.

(2) With regard to the land whose area on the cadastral record has been amended pursuant to the latter part of Article 36 (1), the competent authority shall entrust the registration of a change of indication on the registry, before making an entrustment of the registration of partition as referred to in paragraph (1).

(3) The registration of a change of land category shall be entrusted when the land category of the partitioned land is different from that before the partition in the case of paragraph (1), and the registration of consolidation shall be entrusted in case where the consolidation has been made as referred to in Article 14 (5).

(4) In entrusting a registration of partition, the competent authority shall enter the relevant purport on the written entrustment, and append a certified copy of the land cadastre or that of the woodland cadastre, and a certified copy of the decided protocol of partition.

**Article 38 (Special Cases concerning Registration of Partition)**

(1) When the registration official has received an entrustment of the registration of partition as referred to in Article 37 (1), he shall use a registration paper separately for each partitioned land, and shall enter the purport that a registration was made due to an entrustment of the registration of partition as referred to in Article 37 (1) in the column for indication of the said registration paper.

(2) In the column for matters of the relevant *Gu* in the registration paper that was separately used as

referred to in paragraph (1), the registration concerning the ownership and other rights on the co-owned share of co-owners who acquired the relevant land through partition shall be transcribed from the registration paper before the partition, and thereafter the purport that the relevant co-owner acquired the ownership of relevant land due to the decided partition as referred to in this Act, shall be entered in the column for matters of the *A-Gu*.

(3) In the column for matters of the relevant *Gu* in the registration paper for the land that was surveyed and partitioned as referred to in Articles 23 (2) and (4) (latter part) and 25 (1) (main sentence) and for the land that was independently partitioned as the private roads etc. as referred to in the main sentence of Article 24 (1), the registration concerning the ownership and other rights on the co-owned share of each co-owner who acquired the relevant land through joint partition shall be transcribed from the registration paper before the partition, and thereafter the coowners as referred to in Article 26 (3) or (4) and their shares shall be indicated in the column for matters of the *A-Gu*, and the purport that the ownership of relevant land was acquired due to the decided partition as referred to in this Act shall be also entered.

(4) When the procedures as referred to in paragraphs (1) through (3) has been completed, the registration paper prior to partition shall be closed.

(5) Other matters necessary for the registration of partition as referred to in this Act shall be provided by the Supreme Court Regulations.

#### **Article 39 (Notice of Completing Registration of Partition)**

When the registration officials have completed the registration of partition, the competent authority shall promptly notify each co-owner, interested party and other rightful claimants (including the rightful claimants of attachment, provisional attachment or injunction) of the relevant purport.

### **CHAPTER VI LIQUIDATION**

#### **Article 40 (Liquidation)**

(1) Where the area of land to be partitioned to each co-owner pursuant to the decided protocol of partition (including the area equivalent to the co-owned share as referred to in Article 26 (3) and (4)) fails to coincide with the area equivalent to each co-owned share on the registry, the relevant co-owner shall make a liquidation thereof in accordance with the details of the decided protocol of partition.

(2) In case where there exists an agreement on the liquidation money between the relevant co-owners, liquidation money in making a liquidation as referred to in paragraph (1) shall be based on the relevant agreement, and in case where there exists no agreement, it shall be computed in accordance with the criteria as prescribed by the Presidential Decree.

(3) In setting the criteria for the liquidation amount as referred to in paragraph (2), the location of

land to be liquidated and the market price, etc. of the neighboring land shall be taken into consideration.

**Article 41 (Exclusion, etc. of Payment of Liquidation Money to State, etc.)**

(1) The liquidation money falling under any of the following subparagraphs shall not be paid, notwithstanding the provisions of Article 40 (1):

1. Liquidation money for the portion of land deemed to be included in the portion of the private roads etc. from among the liquidation money to be received by the State or the local government; and
2. Liquidation money for the area deemed to be included in the portion of the private roads etc. from among the area equivalent to the co-owned share on the registry (the balance area between the actually occupied area and the area equivalent to the co-owned share, in the case of the Article 24 (3) 2 (b)) of the person falling under any of items of Article 24 (3) 2.

(2) Where there exist the co-owners as referred to in any subparagraph of paragraph (1), the aggregate of liquidation money to be paid to the co-owners, etc. who are to receive the liquidation money other than themselves, shall be deemed to be the aggregate of liquidation money of the co-owners who are to pay the liquidation money as referred to in this Act, in calculating the liquidation money as referred to in this Act, and the liquidation money to be received by each co-owner shall be based on the ratio of area to be liquidated by them.

**Article 42 (Payment, etc. of Liquidation Money)**

(1) The person who is to pay the liquidation money as referred to in this Act shall pay it to the competent authority within three months from the date of fixing the protocol of partition, and when the liquidation money exceeds ten million won, it may be paid on the installment limited to three times within six months: *Provided*, That the same shall not apply to the case where there exists an attachment, provisional attachment, or injunction against the claims for liquidation money (including the case where the relevant liquidation money is affected pursuant to the provisions of Article 34 (3)).

(2) Where the person who is to pay the liquidation money and the person who is to receive it are specified, and there exists an agreement on the relevant amount, the money may be paid to the relevant other party, notwithstanding the provisions of paragraph (1).

(3) When the competent authority has accepted a payment of liquidation money as referred to in the main sentence of paragraph (1), the said authority shall promptly make an allocated payment to the person who is entitled to receive it.

(4) Where the person who is to pay the liquidation money as referred to in the main sentence of paragraph (1) fails to pay it within the relevant period, the competent authority may collect it by referring to the practices of dispositions on default of local taxes.

## CHAPTER VII SUPPLEMENTARY PROVISIONS

### Article 43 (Cost of Partition)

- (1) Of the costs necessary for partition as referred to in this Act, those as prescribed by the Presidential Decree shall be borne by each co-owner who is to acquire the co-owned land through partition.
- (2) The provisions of Article 42 (4) shall apply *mutatis mutandis* to the collection of cost of partition as referred to in paragraph (1).
- (3) Matters necessary for the definite scope of cost of partition as referred to in paragraph (1), procedures for its collection, and prepayment and refund of cost, etc. shall be prescribed by the Presidential Decree.

### Article 44 (Exemption from Fees for Perusal of Registry, etc.)

Where any officials belonging to the competent authority make requests for perusal of a registry, and for issuance of a certified copy or abridged copy of the registry (including digital information and data on the registration) when deemed necessary for partition of co-owned land as referred to in this Act, the fees therefor shall be exempted.

### Article 45 (Jurisdiction)

The lawsuits as referred to in this Act shall fall under the exclusive jurisdiction of a single judge of the district court having jurisdiction over the location of relevant co-owned land.

## CHAPTER VIII PENAL PROVISIONS

### Article 46 (Penal Provisions)

- (1) A person who has caused by deceptive means any errors in the investigation and survey of lands as referred to in Articles 22 through 25 shall be punished by imprisonment for not more than two years or by a fine not exceeding 20 million won.
- (2) A person who has obstructed the investigation and survey of lands as referred to in Articles 22 through 25 without any justifiable ground, shall be punished by imprisonment for not more than one year or by a fine not exceeding ten million won.

### ADDENDA

- (1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.
- (2) (Term of Enforcement) This Act shall remain in force not later than December 31, 2006: *Provided*, That with regard to the co-owned land applied for partition as referred to in this Act and for which there exists any settlement of a protocol of partition as referred to in Article 33 prior to December 31, 2006, this Act shall apply even after the expiration of validity term of this Act.

(3) (Transitional Measures concerning Penal Provisions) This Act shall apply to a person who has committed a crime as referred to in Article 46 during the enforcement of this Act, even after the expiration of validity term of this Act.