Should "Adverse Possession" apply in cases of co-ownership? Practical problems and legal solutions

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Abstract

The right of the co-owner of an asset to acquire the co-owned asset through Adverse possession or a larger share of the asset than they are entitled to,has been continuously seen with scepticism in many legal systems, such as in the countries that apply common law and civil law. These two institutions have been seen as two institutions that can rarely be not contradicting each-other. Since the years 2000, the High Court in Albania in its consolidated practice has not acknowledged the right of the co-owner to acquire the asset of which they are co-owners through adverse possession without a title. In this article we will retrospectively analyse and find out whether this Institution applied in cases of co-ownership during the communist legal system in Albanian (1945-1990). By comparing the Albanian legal system and the Italian one, which have many similarities in the area of the Private Law, and by focusing on the last legal changes in some European countries, we will try to answer the question whether we can apply the institution of Adverse Possession in cases when the asset which is subject to adverse possession is co-owned.

KEYWORDS: Property, Co-ownership, Possession, Acquisitive prescription, Albanian Private law.

Introduction

Adverse Possession, the ancient way of acquiring ownership through long-term possession, continues to be an institution that triggers great debates between researchers, even today, 2500 years after it was first acknowledged by the ancient Roman Law, after it was incorporated in the Byzantine system by Justinian in Century VI of our era, and also in some legal systems of countries of Western Europe created after the fall of the Roman Empire. The legal debate covered in this article is related to some legal issues: first - Can one of the co-owners of an asset acquire this asset, or portions of it, by adverse possession,? Second, if yes, in what cases can it happen?

But, what is co-ownership? The Albanian legislation, the doctrine[1] and jurisprudence have accepted the axiom that "co-ownership is a special form of the right to ownership, in which two ore more persons exercise this right together on one or more assets, and on the real rights related to them".[2]Adverse possession is the original method of acquisition of ownership in which the real rights are earned through long-term, peaceful, exclusive and public possession. Referring to the concept of possession itself we can say that possession

[1]Nuni.A, Hasneziri.L, 2007, page 136

[2]Decision No. 519 of 16th October 2014 of the High Court of Albania.

is: “Being able to exercise the ownership or co-ownership rights or iura in re aliena.”[3] Does this then mean that long-term possession can lead to co-ownership, or termination of co-ownership? Debates have been initiated on the acquisition of the right to ownership of the whole asset by one of the co-owners. Can they acquire the whole asset through adverse possession, even if in fact they are legally co-owners of a portion of the asset? In its Decree of 2001, the High Court of Albania explicitly says that adverse possession without the title cannot be applied in cases of co-ownership. So, if one of the co-owners possesses and administers the asset of which they are co-owners, this cannot lead to acquisition of their right to ownership by prescription. [4] But even after some years, in 2014[5] the High Court of Albania sanctioned that adverse possession without the title does not apply in cases of co-ownership. According to the High Court's logic: the lawsuit to be acknowledged as an owner by means of adverse possession, can be filed by the possessor and not the owner of the asset, and it is filed against the owner. The co-owner of the asset cannot file this lawsuit. And to the other question: "can a co-owner acquire, by means of adverse possession, a share of the co-owned asset larger than they are entitled to"" The answer of the High Cour in this Decree is "No".

The question we ask in this article is: can one of the co-owners acquire ownership or exclusive rights on the whole co-owned asset or on certain parts of it?

Application of adverse possession in these cases causes problems because the first impression is that the "exclusivity", which is a feature of the possessor and has been often considered a fundamental feature of the possession so that it leads to acquisition by means of adverse possession, but in fact in the case of co-ownership it might not exist as a feature of the possession. Because the ownership is related to exclusivity, many authorities defend the idea that it is difficult to perceive acquisition by adverse possession of a co-owned asset by one of the co-owners.

The debate heats up if we have a look at the common law system that acknowledges the “adverse possession” doctrine[6], and that from centuries has not acknowledged acquisition by adverse possession of the whole asset if the possession has been exercised by one of the co-owners.[7] In the common law systems such as in England and USA, the co-owner can never claim acquisition by adverse possession of the whole co-owned asset. This is because in countries that apply the common law system: "only one person can

[3]Pola.P; 2011, page 56

[4]In its Decree No. 701 of 21st June 2001 the High Court of Albania states that: "because the possessor is one of the co-owners, the administration of the co-owned asset only by one of the inheritors, is not considered denial of the right to co-ownership to the other co-owners. "In this case, the Plaintiff requires to be acknowledged as the owner by means of the winning prescription, because she claims to be the heir that has possessed the home of the former owner since 1968, and she has possessed it openly because the former owner had left a testament in her name, which was then opened in 1994 and found to be null and void. But the High Court did not accept her lawsuit.

[5]Decision No. 378 of 12th June 2014.

[6] In essence, adverse possession causes the same consequences as the winning prescription. But in common law it is only applied for acquisition of ownership on land.

[7] Le Fevre;1971 page 2; Wonnacott, 2006, page 126

possess a real right and "iura in re aliena" on a certain land during a certain period of time. The common law considers the co-owners as one single person.[8]

The tradition of the English Law does not accept acquisition by "adverse possession" of co-owned land by one of the co-owners. Starting with the English Law Limitation Act 1623, "If an asset is co-owned, exclusive possession by only one of the co-owners is considered possession exercised in the name of all co-owners, and as a result it cannot lead to acquisition of the asset by "adverse possession".”[9] Later on, the Law Property Act of 1925 officially forbade acquisition by adverse possession among co-owners; and the Limitation Act of 1939 also forbade it, thus none of the co-owners of a land cannot acquire ownership of the co-owned asset by adverse possession.

This tradition is of this nature because exclusivity is the foundation of ownership in common law, the exclusive possession, de jure or de facto is the "bedrock" of land ownership in England. [10]

But the civil law system generally accepts the application of adverse possession not only on co-owned movable assets, but especially in the case of acquisition of co-owned land by adverse possession. Co-ownership and adverse possession are not considered institutions that exclude each-other. *Co-ownership does not exclude the application of the Institution of adverse possession: “obligatory co-ownership is not considered an institution that contradicts adverse possession.”[11]

The Albanian Civil Code of 1994 had issues in accepting adverse possession without the title in the case when one of the co-owners acquired ownership of the co-owned asset, because this code does not have a specific provision to provide for, even indirectly, adverse possession in this situation, as does the Italian Civil Code with Article 1102/3 which sanctions: “If the title of possession of the possessor changes, the co-owner has the right to expend his right at the expense of the other co-owners.”[12]

Materials and methods

The article refers to analysis of the jurisprudence and legislation, mainly focusing on the comparison between the Albanian and Italian legal systems. The primary sources that have been used are legislations and the commentaries of the Codes, and the secondary sources used are works from various researchers mainly during 1934-2016. It includes analysis of the Civil Code of Albania of 1992, the legislation on the right to ownership during 1945-1990, the Civil Code of 1994, and the Jurisprudence of the High Court of Albania during these years. These normative acts and legal decrees have been compared to the tendency of the Italian Courts and Italian legislation which is very similar to the

[8]Wonnacott, 2006, page 129.
[9]Jourdan.S, Radley-Gardner.O 2011, page 25
[10]Jourdan.S, Radley-Gardner.O 2011, page 59

[11].Senatore.A, 2013, page 193
[12] Also, Point 2 of Article 1102 of the Italian Civil Code sanctions: "a co-owner cannot expand his right on the co-owned asset at the expense of the other co-owners. He can expend this right only if appropriate actions are carried out that lead to "mutamento", i.e. To the change of this title of possession."

Albanian one in relation to the Private Law in general, and they are especially similar in the case of the institution of the "adverse possession".

Results

This article reaches at the conclusion that the Albanian Civil Code does not have clearly formulated provisions related to acquisition by adverse possessions in the case of co-ownership. As a result we think that it is necessary to expressly provide for the possibility to recognise acquisition by adverse possession with title in the case when the ideal share of one of the co-owners is sold to a third party; and also to expressly accept acquisition by adverse possession with or without title by one of the co-owners of the whole asset or of a share larger than the ideal share a co-owner is legally entitled to.

So in the case of co-ownership, we accept the opinion that a co-owner must be able to acquire the whole asset, or parts of it, by adverse possession. The main reason for this is that we think that a co-owner cannot receive a treatment which is discriminatory compared to how third parties are treated. It is a fact that a third party can acquire an asset by adverse possession although they have no relation to the asset. If a co-owner is not allowed to acquire by adverse possession an asset of which he/she is a co-owner, it means that they are receiving a treatment which is discriminatory compared to how third parties are treated.[13] But the main condition to be met so that the prescription can apply is the "notification, in any form, of the other co-owners on the exclusive possession of the co-owned asset by one of the co-owners.

Discussion

The institution of prescription in itself is a controversial one that has caused heated debate in the doctrine during the years. We can understand the application of adverse possession in the case of co-ownership only if we can understand the content of the law and why it contains specific elements: "..in essence "to understand politics and why the legislator has acknowledged this institution, helps to solve delicate issues"[14], which are components of application of its practices.

The Albanian legislation after 1945 initially accepted isolated cases of application of adverse possession without title in cases of co-ownership: one of the co-owners can acquire by adverse possession the whole asset only when they "completely deny the right to ownership to other co-owners."[15], or has also accepted the application of adverse possession with title. The object of a particular case was a donation contract by which the co-owners verbally donated the home to one of the co-owners. The District Court accepted the lawsuit of the plaintiff who asked for restitution of the asset through a revindication lawsuit. But the High Court overturned the decision of the District Court. The good faith was proved by the fact that the beneficiary had acted like the sole owner for about 30 years, covering all legal and maintenance expenses. He had introduced

[13]This approach has been accepted by some jurists during the recent years (see Pola, 2011, page 110)
[14]Jourdan.S, Radley-Gardner.O 2011, page 45

[15] Decision No. 117 of 30th May 1959, at Instructions and Decrees of the High Court of the People's Republic of Albania, 1965, page 199.

himself as the owner, by possessing the home with the spirit of a true owner."[16] So the application of adverse possession has been accepted if the co-owner with the expressed title has acquired the co-owned asset from the co-owners. But, can a co-owner acquire a co-owned asset in the case of prescription without title?

The Albanian Civil Code of 1929, [17] was more advanced in this aspect, because it expressly acknowledged acquisition by adverse possession of a co-owned asset. The Official Commentary of this Code accepted the principles of the Italian law: "...the right to co-ownership can be terminated as a result of a "animodomini possession of the whole co-owned asset by one one of the co-owners, for the time frame provided by the law for acquisition by vehtesimtar prescription. The author acknowledges that: "in this case the right of the other co-owners to demand division would cease to exist not because of the terminating prescription, but only as a result of the vehtesimtar prescription of their shares by the first co-owner. [18] So for the co-ownership, the author acknowledges that shares of the asset can be acquired either by adverse possession with title (the Civil Code of Zogu called it ten years "vehtesimtar" prescription), or by adverse possession without title (thirty years vehtesimtar prescription). .

If we refer to the Civil Code of Albania, this Code does not allow application of adverse possession. If we first see Article 200/a [19]and 200 /b[20] of the Civil Code, it is clear that any common action with and use of the asset are obligatory for the co-owner, in accordance with their rights on the asset.

Can we answer positively to the question: **can a co-owner acquire, by means of adverse possession with or without title, ownership of a co-owned asset or part of it**?

In other words, should the Albanian legislation acknowledge the right of a co-owner to acquire, by means of adverse possession, ownership of the whole asset or parts of it, even though the Albanian Civil Code does not have a provision that expressly and explicitly acknowledge the possibility of acquisition of the whole co-owned asset by adverse possession?[21]

In principle, if a co-owner possesses the asset, it is not initially clear whether he/she possesses it in his/her own name, i.e. exclusively for his/her own interest or for the interest of all co-owners.[22]

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[16] Decree of 07th February 1969, at Instructions and Decrees of the High Court of the People's Republic of Albania, 1975, page 202.
[17] Entered into force on 01st April 1939 during the reign of King AhmetZogu.
[18]Benusi.B, 1931, page 59.
[19]Each co-owner has these rights: a) to benefit from the revenue generated by the co-owned asset, in proportion
to their share.
[20]The rights of the co-owners Article 200 b) - to use the co-owned asset as per the defined purpose and in ways that do not prevent the other owners from rightfully using it.

[21]Article 1102 of the Italian Civil Code.
[22] This was acknowledged by the Albanian Civil Code of 1929: possession of the whole asset by one of the co-owners is in fact legitimate, but in essence it is suspicious. So, "ambiguous". As BaltasarBenusi says in

Clearly it will be presumed that the co-owner possesses the asset for the interest of all co-owners. This is a "iuristantum" presumption,[23] which implies that the co-owner is presumed to administer the co-owned asset and manages the expenses in proportion with the shares of other co-owners. So it it up to the co-owner who has claims on adverse possession, to prove that he has excluded the possibility that any other co-owner can create a material relation with the co-owned asset.

Two cases can be encountered: First, when one of the co-owners conveys to another co-owner, with an invalid title, the asset/a share of the asset larger than what they are entitled to. Second, when one of the co-owners possesses the asset/a share of the asset larger than what they are entitled to, without title.

The High Court of Albania with its consolidated practice has answered positively to the first question. The High Court has accepted that a valid title for acquisition with prescription of the whole item can be a simple written contract between one of the co-owners and the possessor, through which the ownership not only of the share of this co-owner but of the whole asset is transferred**.**[24]

In relation to the second issue, in principle it seems absurd that one of the co-owners can acquire the whole asset by adverse possession. Because in the case of co-ownership the possession by a co-owner of the asset cannot be a possession similar to that of a common possessor,[25] we think that the fact that one of the co-owners has used the co-owned asset more than the others (usage that should be broader than the rights of the co-owner) should not suffice for that co-owner to acquire their share by prescription and be considered the only owner of the asset. The silent agreement of the other owners is

page 230 of the commentary, it is not known if possession by a co-owner aimed at the right to exclusively possess the whole asset, or at the right to own and ideal share of the asset.Hence, we can call this an "equivocal possession".

[23] As we will mention later about the procedural issues during court sessions about acknowledgement of winning prescription, this is just a simple presumption that can be easily disproved by any piece of evidence that the possessor can bring to prove continuous "animodomini" possession and not "animocondominus" any more.

[24] The Plaintiff files a revindication lawsuit demanding he/she is declared owner of a home, Article 296 of the Civil Code. The Defendant files a counter-lawsuit demanding he/she is declared the owner, and annulment of the decision of the Commission of Restitution and Compensation of Properties (KKKP), for winning prescription with title based on Articles 168 and 170 of the Civil Code and on Article 91 of the previous Civil Code. The Plaintiffs claim that as heirs of their father who had owned a home with six rooms, they are the legal inheritors and owners of this inherited property. The defendants live at this building. They have entered into two contracts with the mother of the Plaintifs: the first one in 1976 when they bought by means of a proper notarial contract a room of this home (this contract was not signed by the father of the Plaintiffs). And with the contract of 1980 they bought from the mother of the Plaintiffs the five other rooms. The High Court dismisses the lawsuit and accepts the counter-lawsuit and annuls the decision of the KKKP that returned the property to the Plaintiffs. Agreement of 1976 on the High Court is valid. The agreement of 1980 on the Court is also valid. **(Decree No. 1349 of 24th October 2001.)**

[25] Co-ownership is a specific situation and is different from the case when possession on the asset is exercised by a person which is totally and absolutely stranger to the owner of the asset (Galati A, page 227).

indispensable, but what is most important is that they have been notified about this "extended" possession of one of the owners and have not acted to disrupt the time frames of adverse possession. It is so the case of congestion of the rights of the other owners on the same asset, and expansion of the power of the co-owner who claims to acquire it by adverse possession.

We can distinguish two situations in the case of possession exercised by a co-owner:

I. A co-owner possesses more than they are entitled to from the co-owned asset.

II. A co-owner possesses the whole co-owned asset.

In the first case, the Roman legal tradition was against the application of adverse possession. So, every use beyond the undivided share that belongs to a co-owner (pro indiviso) (when the co-owner possesses, without title, more that what they are entitled to), will not lead to acquisition of ownership.But the legislation of the last years has changed in some countries, such as Greece [26]or Hungari[27], and the jurisprudence has shown that acquisition by adverse possession can be accepted if "exclusive" possession of a well defined share of the asset is proved.

In the second case, when the co-owner possesses the whole co-owned asset, pro indiviso, in principle there is no reason to not allow the co-owner to acquire ownership of the whole co-owned asset.

We think that the criteria that the possession of the co-owner must meet, whether they possess the whole asset or a share of it, must be strict and more rigorous than possession that could have exercised a third party on this asset.

First, the co-owner must enjoy the asset in a manner which is "totally incompatible" with the right of another party to enjoy it. So the co-owner must make his will known and make it totally clear that they intend to act as the sole owner of the asset, i.e. "utidominus", and not just "uticondominus".[28] The co-owners must behave in a way that shows their intention to possess the asset exclusively for themselves, without any reasonable doubt on the meaning and essence of their material actions.[29] So the decisive criterion is an "animuxexcludendi" to have the expression of "dominusekskluziv" on the co-owned asset "res communis"[30] In all types of co-ownership of whatever origin (inheritance/purchase/being part of an agricultural family) the applicable principle is that "co-possession by owners can lead to exclusive

[26]Klaoudatou.C,2011, page193-333 in Faber.W,2011,vol III.

[27] The last amendments of 2009 of the Hungarian Civil Code sanction that the undivided share in the co-ownership can be acquired by winning prescription. “the explicit provision on the acquisition of ownership by acquisitive prescription of an undivided *(pro indiviso)* share of ownership.” For more, see “National Report on the Transfer of Movablesin Hungary”, Szilágyi.F,2011, (faqe 33-409) in Faber.W,2011,Vol III.

[28] Decree No. 16896 of 04th October 2012 of the Cassation Court of Italy. Decree No. 23539 of 10th November 2011.

[29] Decision No. 8152 of 15th June 2001 of the Cassation Court of Italy.

[30] Decision No. 2192 of 30th January 2008 of the Cassation Court of Italy.

possession". And this is the fundamental condition for acquisition by adverse possession (this principle was re-stressed by the Decree No. 16341 of 11th August 2005 of the Cassation Court of Italy.

It is understandable that there cannot be animus domini even if the co-owner possesses the item through an Administration Power of Attorney from the other co-owners.[31] So, acting like an owner implies excluding other co-owners from the possibility to change the destination of the asset and preventing these co-owners from freely exercising their rights that derive from co-ownership of the asset. This was accepted by the Cassation Court of Italy, which, after debates in the doctrine in the last years, acknowledged that the co-owner can acquire the asset by adverse possession, but only if they exercise possession through clearly visible material actions.[32]

Second, an additional criterion must be set, that in case the asset is acquired by adverse possession by a third party who is not one of the co-owners, this is not final and absolute. It is indispensable that the co-owners to have received any type if notification about the actions of the possessing co-owner. There are different approaches in relation to this fact: "There are opinions that the other co-owners must be notified that one of them is exercising certain rights on his/her share (and the deadline of adverse possession must start from that moment.[33]

There are other authors who are of the opinion that there is no need for the co-owners to be effectively notified about these actions, as long as the possession exercised by one of the co-owners is public and clearly contrary to the will of the other co-owners. "the acts of enjoying the asset entitle the co-owner in question to acquisition by adverse possession if they are openly in absolute contradiction with the right of the other co-owners. According to this point of view, the actions of the possessing co-owner, in essence, are potentially capable of showing the open will of the co-owner to possess the asset as exclusive owner. So it is not important whether the other non-possessing co-owners have been really notified about the possession of the asset by this co-owner (Caterina.Rafaele, page 171).

The recent years practice of the High Court of Italy has in fact accepted that it is obligatory that the other co-owners must have been notified about the possession of the co-owned asset, and nevertheless they have not objected for years the exclusive possession of the co-owner.[34]

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[31]Pola.P, 2011, page 62

[32]Sez. 2, no. 04372/2015 Massimario of the Decisions of the Cassation Court of Italy, Volume 1, 2015, page 48. https://www.portaledelmassimario.ipzs.it/frontoffice/rassegneAnnuali.do

[33]Senatore.A, 2013, page 40

[34] - An interesting case that has been acceptede by the Cassation Court of Italy: A case in which one of the co-owners acquires by winning prescription the whole co-owned asset.
- e.g. The Italian Court (Decree of 09th June 2010 of the Court of Genoa) which accepted that: "because it was proved by the evidence in court that the Plaintiff was the only one who exclusively had the key to the apartments and administered them and made expenses to improve them, without asking the other co-owners who were the defendants in Court to pay their share of expenses, the Judge accepted that the Plaintiff has exercises such a power on the asset that constitutes exclusive power. Furthermore, the fact that these

But which actions must be acknowledged as the ones that lead to acquisition by adverse possession?

a. improvements of the asset.

The Albanian Legislation has continuously been considered improvements as a duty on the co-owner as a result of their participation in co-ownership. And in principle just the fact that improvements have been carried out cannot lead to acquisition by adverse possession.[35]

So, just the fact that improvements, routine or necessary, have been carried out, cannot a priori imply that this is a case of acquisition by adverse possession: "If one of the co-owners carries out necessary (indispensable) works or improvements of the asset, neither of them constitutes grounds to deny the other co-owner their right to co-ownership."[36] If improvements were carried out without the consent of the other co-owners, the co-owner who carried them out did not just have the right to be paid for those expenses. But according to the High Court, carrying out these improvements did not deny the other co-owners their right to ownership.

We think that only if these improvements essentially alter the destination of the asset, can they lead to acquisition by adverse possession by the co-owner.

b.Demolition of the co-owned building and the construction of a new one.

The Albanian legislation and the jurisprudence of the High Court of Albania[37] during the years[38] has considered the demolition of the building and construction of a new one by the co-owner as one of their rights. Demolition of the co-owned building and the construction of a new one is not "administration of the property", but "essential alteration

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actions were carried out openly and peacefully for more than 20 years, is an acknowledgement of the right of the Plaintiff to acquire all the realties by winning prescription.

[35] Article 1027 of the Albanian Civil Code of 1929 sanctioned: if one of the co-owners will renovate the asset, they will obtain everybody's consent. But as per Article 74 of the Decree on the Ownership, the co-owner that has carried out the improvements has the right to ask the other co-owner to pay expenses in proportion with their share on the co-owned asset.

[36] Decsicion No. 8 of 07th February 1962.

[37] Decision No. 47 of 07th August 1959, at Instructions and Decrees of the High Court of the People's Republic of Albania, 1965, page 244

[38] Decision No. 1008 of 05th June 2003 of the High Court of Albania. If a co-owned building, during the time it is co-owned, is demolished and then totally rebuilt by one or some of the co-owners, does this lead to acquisition of co-ownership by winning prescription without title of the ownership of the whole building by the co-owners who rebuilt the asset? According to the High Court, no. In this case the Court is of the opinion that after the asset is divided in the first phase of division in which the ideal shares are defined, then in the second phase when the division in nature is carried out, the Court will identify the contribution of the parties, by assessing their effective contribution in the improvement and reconstruction of the asset. In this case the High Court is of the opinion that ownership of the co-owned asset cannot be acquired by winning prescription.

of the property". According to the High Court, although the co-owner has not given her consent for the improvements, she "has the right to participate in the construction of the new home and become owner with her respective share of the new home."[39]

But when co-owners that carried out the reconstruction continuously lived in the new building, excluding the previous co-owners, was considered by the Italian High Court as a case in which the co-owner has the right to acquire, by adverse possession, co-ownership of the whole co-owned asset. "co-owners acquire by adverse possession that if the asset is destroyed, and some of the co-owners have rebuilt it and have lived in the reconstructed building since the reconstruction, contrary to the interest of the other co-owners who have never opposed this fact, then the co-owners who carried out the reconstruction and continuously lived in the building since after the reconstruction, have the right to acquire the whole asset by adverse possession.[40]

We think that although they have lived in the building, the Albanian legislation must acknowledge acquisition by adverse possession, but only if exclusive possession that categorically excludes the other co-owners is proved. The High Court of Italy declared in one case that the fact that the possessing inheritor has built a home, or the fact that they have improved the asset, do not suffice to take into consideration the acquisition of the co-owned asset by adverse possession, and the fact that the possessing inheritor has carried out improvements on the asset does not suffice to consider acquisition of the co-owned asset by adverse possession. At the same time, apart from the co-possession of the asset the following is also necessary: "disinterest of the other co-owners on the asset". Second, expansion of possession of the possessing co-owner beyond their ideal share., so an "animus posidendi", that shows their will to exclusively possess the whole asset or specific parts of it.[41]

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[39] See Article 74 of Decree "On the Ownership", passed by the Albanian Parliament: "each co-owner benefits from the revenue and bears liabilities of the co-owned asset, in proportion with their share."
[40]Decree No. 12775 of 20th May 2008 of the Cassation Court of Italy.
[41] Decree No. 14467 of 20th June 2011 of the Cassation Court of Italy.

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