**§ 46A-75. Sale in lieu of actual partition.**

(a) Subject to G.S. 46A-29(b), the court shall order a sale of the real property described in the petition, or of any part of the property, under this Part only if it finds by a preponderance of the evidence that an actual partition of the property pursuant to Part 2 of this Article cannot be made without substantial injury to any of the parties, after having considered evidence in favor of actual partition and evidence in favor of a sale presented by any of the parties. The party seeking a sale of the property has the burden of proving substantial injury under this section.

(b) In determining whether an actual partition would cause substantial injury to any of the parties, the court shall consider all of the following:

(1) Whether the fair market value of each cotenant's share in an actual partition of the property would be materially less than the amount each cotenant would receive from the sale of the whole.

(2) Whether an actual partition would result in material impairment of any cotenant's rights.

(3) Whether charging owelty under G.S. 46A-51 would eliminate or mitigate any substantial injury to any of the parties caused by an actual partition.

(c) If the court orders a partition sale, the court shall make specific findings of fact and conclusions of law supporting the order.

(d) As provided in G.S. 46A-52, if two or more parties claim the same undivided interest in the property, the court is not required to decide the issue before ordering a partition sale of the property. (1868-9, c. 122, ss. 13, 31; Code, ss. 1904, 1921; Rev., s. 2512; C.S., s. 3233; 1985, c. 626, s. 1; 2009-512, s. 2; 2020-23, ss. 2(y), 3.)