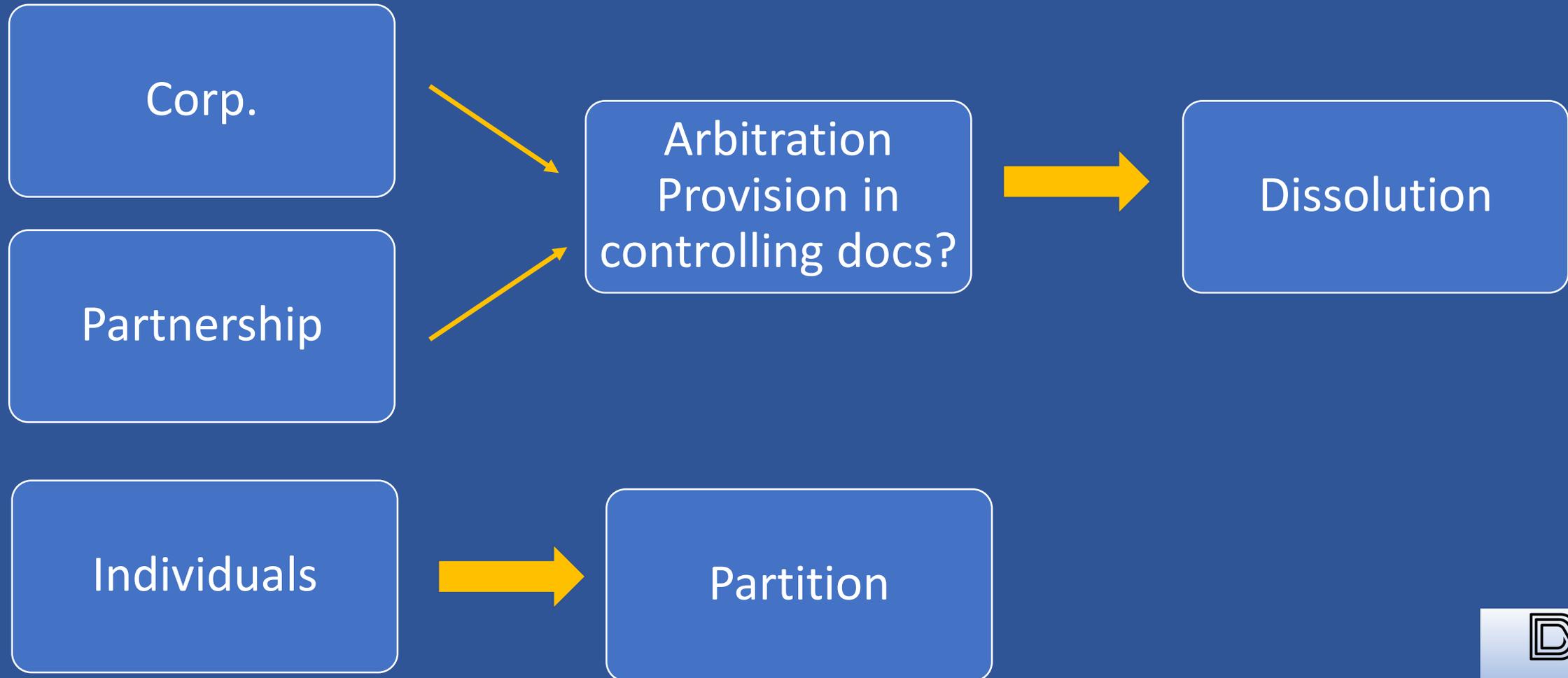


Case Assessment

Common Real Estate Disputes Stemming from Co-ownership

How is title for the co-owned property held?



Common Corporation or LLC issues

- Breach of fiduciary duty
- Usurping business opportunities
- Mismanagement
- Disproportionate funding and/or effort
- One member or stakeholder wishes to liquidate



Corporation or LLC remedies

- Dissolution
- Accounting, valuation
- Damages for ouster
- Disgorgement
- Receivership



Case Study – Bardis v. Oates

- \$300 acres in Orange County including a racetrack, golf course, and industrial area acquired by 4 partners and held by the Cypress General Partnership
- Property except for 40 acres of commercial property sold for price \$71M
- Dissolution split up the remaining parcels between the 4 partners and held by TIC
- Majority vote for GP, TIC did not and instead used a “Lead Co-Tenant” to manage the TIC

Case Study (cont.)

- Oates (“Lead Co-Tenant”) began marking up invoices, clear self dealing
- Paid himself a “management fee”
- Another member brought in a buyer for parcel 2, with listing agent to take 4%, but secretly splitting commission with member who received a kickback of \$122k
- On the sale of the last parcels, member negotiation commission to be paid entirely from the TIC owned parcel, another secret deal



Case Study - Remedies

- Given the “lead Co-tenant” role, as a fiduciary, 3333 damages were available.
- \$165k in compensatory damages
- Jury found “malice, fraud, and oppression” and awarded
\$7M in punitives

