

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 2007

CONVEYANCING AND REGISTRATION OF TITLE

(THURSDAY, AUGUST 2, 2007)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer **FIVE** questions.
- (c) In answering any question, a candidate may reply by reference to the law of any Commonwealth Caribbean territory, **but must state at the beginning of the answer the name of the relevant territory.**
- (d) It is unnecessary to transcribe the questions you attempt.
- (e) Answers should be written in ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Shantal Orenge, an Administrative Executive who now resides at 10 Money Way in the parish of St. John in your jurisdiction, is considering the purchase of a condominium/strata unit from Elise and Patrick Holloway, teacher and accountant, respectively.

Shantal intends to obtain a mortgage from Town Bank Limited to assist with the purchase of the unit and tells you that she understands that the Holloways also have a mortgage on the unit to be sold.

Shantal now seeks your advice as follows:

- (i) What preliminary enquiries, searches and requisitions you would advise Shantal as a potential purchaser to carry out in the circumstances outlined.
 - (ii) Prepare a list of documents that you would advise that a prudent purchaser obtain for review, perusal or execution to ensure completion of the sale.
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QUESTION 2

Trevor has entered into an agreement to purchase a three bedroom house, title to which is registered. Contracts have been exchanged and Trevor tells you that he has now become aware of the following:

- (i) there is a restrictive covenant noted on the title that the building shall be used only for residential purposes;
- (ii) the survey report reveals that the total land area is one-half acre and not three-quarter acres as stated on the agreement for sale;
- (iii) the roof is termite infested and has to be replaced.

Trevor's plan was to set up a nursing home on the property and is very concerned as to whether this will now be possible. Trevor has indicated that he would much prefer to get out of the contract and look for another property.

Trevor seeks your advice in respect of each of the above concerns and in particular whether he would be able to rescind the contract.

QUESTION 3

By his Will, Alistair who is now deceased, made the following provision:

"I devise my property located at 100 Happy Ave. to my wife Dania for her occupation and enjoyment for the rest of her life and thereafter to our son Lance. I hereby appoint Dania as my sole executor and my best friends James and John as my Trustees for all matters concerned with my estate."

Dania has received an offer from her favourite niece Iris and her husband Daniel to purchase the property at 100 Happy Ave. and is willing to sell so as to have access to some cash she badly needs.

Dania tells you that she has obtained probate and that the property has a registered title. Dania now seeks your advice on the following:

- (i) the procedural steps she would be required to take to register the property in her name, consistent with the wishes of her deceased husband, Alistair.
 - (ii) Outline the matters that must be considered and the guidelines to be followed if Dania is to pursue the sale of the property to Iris and Daniel.
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QUESTION 4

Adonis is the registered proprietor of property that he has sub-divided into 20 one-acre lots. There is a restriction on the title to each lot that there should be no subdivision of the lot. He has retained one lot on which he has constructed his home.

Adonis tells you that so far he has sold ten lots and that attempts at selling the remaining 10 lots have been unsuccessful. He believes that persons are looking for smaller, more affordable lots. Adonis now wants to further subdivide the remaining lots into half-acre lots and seeks your advice.

Advise Adonis on the procedural steps he would be required to take to further subdivide the remaining 10 lots. List the document(s) that will be required and summarise the contents of such documents.

QUESTION 5

Melissa is the registered proprietor of property consisting of a commercial office building.

Melissa's instructions are that she was registered on title as proprietor by way of assent made in her favour by Johnai James, the sole executor of the Will of Donald Simpson, Melissa's deceased cohabitee.

Melissa has entered into a contract to sell the house to Real Property Limited, a company duly incorporated under the laws of your jurisdiction. However, on presenting the transfer to the Registrar of Titles/Registrar of Lands Melissa says she was advised that a caveat/caution was lodged by Donald Simpson's nephew, Shawn Money, prohibiting all dealings with the property. Shawn is claiming that the Will was forged and that he is entitled to the property on intestacy.

Prepare a letter to Melissa advising her on the procedural steps that she can take to deal with the matter at hand as Real Property Limited is pressing her to complete the sale.

QUESTION 6

You have been instructed by Theo Moncrieffe, the managing director of Plant Nurseries Limited, to prepare the contract of sale with the appropriate insertions or additions as you deem necessary. You have been given the following instructions:

Purchaser: Marie-Lyn Agustus

Property: Plant nursery – fully equipped plant building etc. together with plants available at closing

Purchase Price: \$5 million – 15% on signing agreement, further 10% within 1 month of signing agreement, balance on closing

Special conditions: Purchaser to get mortgage

Costs of title: Shared except property transfer tax;

Carriage of sale: Vendors attorney – Sale agreement \$30,000 to be shared

- (i) Prepare a draft contract of sale.
- (ii) What advice would you give to Theo based on his instructions for the payment of the purchase price?

QUESTION 7

Ricardo is the registered proprietor of land registered at Volume/Block 12 Folio/Parcel 40 of the Register Book/Land Register.

Ricardo tells you that he obtained a mortgage from Home Building Society in June 2000, using the property to secure the Building Society's interest. The mortgage was duly endorsed on the title.

The Loans Manager of Home Building Society has informed Ricardo that they are unable to find the duplicate certificate/land certificate and believe that it was stolen when their offices were broken into earlier this year.

Advise Ricardo on the procedural steps he would be required to take to obtain a new duplicate/land certificate. You are to list the document(s) required and summarise their contents.

QUESTION 8

Bonito Gooden is indebted to Finance Limited in the sum of \$600,000 on a mortgage loan of \$1,500,000, given on the security of his residence at 17 Homestead Road. The premises is comprised of a house on land registered at volume/block 1345 folio/parcel 47.

Bonito is twelve months in arrears of his mortgage payments (total arrears, \$250,000). He has found a buyer and promises to give Finance Limited the net proceeds of \$600,000 if they release the premises for sale and not enforce their rights pending completion.

Bonito's attorney-at-law has sent a letter to the bank setting out the appropriate undertaking and requesting their consent in writing.

The Manager of Finance Limited consults you. He is adamant, however, that Bonito has been a bad customer and is insisting that the bank will sell the premises to another customer who he knows can pay cash.

Advise the Manager of Finance Ltd generally, bearing in mind the obligations of and steps to be taken by the mortgagee in realizing his security.
