

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR EXAMINATIONS, 2004

CONVEYANCING AND REGISTRATION OF TITLE

(MONDAY, MAY 17, 2004)

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

The Executors of the Will of Sammy Joe, deceased, assented to the vesting of a dwelling house in favour of Bobo who was duly registered as proprietor. Bobo contracted to sell the house to Mary Jane and the transfer has now been executed. However, a caveat has been lodged by Jimmo who is claiming that the Will was forged and that he is entitled to the property on intestacy.

Advise Bobo on the steps that may be taken with a view to registering the transfer, taking into account the role played by the Registrar of Titles/Registrar of Lands.

QUESTION 2

- (a) The following notes have been passed to you by the Partner with whom you work in the firm. The instructions are that you prepare the contract of sale with appropriate insertions or additions, as you deem necessary.

Vendor: Alpha & Omega Ltd.
(James Bond – major shareholder/ director)

Purchaser: Dick and Ellen Tracy (jointly) t/a " Sweet Treats"

Property: Fully outfitted bakery with registered title (oven etc.)

Purchase Price: \$3 million – 20% upfront, balance on completion

Taxes, water etc.: to be apportioned

Costs of title: to be shared, except transfer tax

Special conditions: Purchasers require mortgage loan for balance

Carriage of sale: Vendors attorney – contract of sale - \$20,000 to be shared

Draft the Contract.

- (b) What advice would you give the vendor on:
- (i) the requirement that the purchasers make an initial payment of 20% of the purchase price;
 - (ii) any transfer tax payable on the transaction.
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QUESTION 3

Home Solutions Ltd. owns ten acres of land with registered title and wishes to develop the land by constructing a condominium/strata complex. The property is mortgaged to First Bank Ltd. Cassie is interested in buying a unit but will have to get a mortgage from the Building Society.

- (a) How should Home Solutions Limited proceed?
 - (b) What preliminary enquiries, searches and requisitions would you deem appropriate on behalf of Cassie as a purchaser of a unit in this new scheme and in addition the relevance of undertakings to her situation.
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QUESTION 4

After contracts were exchanged, John Paul the purchaser of a house became aware of the following:

- (i) the roof of the house is made of asbestos and has to be replaced;

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- (ii) there is a restrictive covenant to the effect that the building shall be used only for residential purposes;
- (iii) the survey report reveals that the total land area is one-half acre and not three-quarter acres as stated in the agreement for sale;
- (iv) the tool shed encroaches on the land of the adjoining property owner and there is pending legal action in court on the matter.

John Paul had hoped to open his motor mechanic shop in the large backyard and give up the rented premises from which he now operates his business.

He wants to rescind the contract and seeks your advice in respect of the each of the above concerns. Advise him.

QUESTION 5

By his Will, Tommy, now deceased, made the following provision:

"I appoint my wife Dolly as Executor. I appoint Darby and Joan my Trustees for the purposes of the Settled Land Act/Settled Estates Act. I devise my property known as "Home High" located at 10 Merry Ave. to my wife Dolly for her life and thereafter for my children Sal and Val equally."

Dolly never liked the "Home High" property and is anxious to sell as soon as she can find a buyer. If that does not materialise she is willing to buy the property for her first born, Annie. Johnny, a prospective purchaser, has declared an interest in buying the property for \$1 million dollars, which he will pay in cash. A recent

valuation of the property showed a market value of \$2.5 million. The property is registered land.

- (a) Outline the procedural steps to be taken to register the title in accordance with the testator's wishes.
- (b) Outline the matters that must be considered and the guidelines to be followed if Dolly wishes to buy the property herself or sell the property.

QUESTION 6

By mortgage dated December 10, 2003, the St. John Building Society loaned \$5 million to Blossom and Pablo Grande on the security of a villa owned jointly by the Grandes. The Building Society's interest was duly endorsed on the title. The Building Society has advertised a number of properties, including the Grandes' villa, for sale by public auction in the local newspaper. The Grandes were only made aware of this when several persons came by to view the property, causing them much embarrassment.

They have now learnt that Jones, from whom they bought the villa, has lodged a caveat on all dealings with the property having seen the Building Society's advertisement in the paper. Jones is claiming that the Grandes still owe him \$500,000 from the sale.

The Grandes admit that they have not made any re-payments to the Building Society or to Jones, but that they have never received from either party any demands for payment or any notice of intention to sell the property.

- (a) Explain the difference, if any, between the rights and interests of the Building Society and those of Jones.
 - (b) Advise the Grandes on the powers of the Building Society to sell the property and how these powers may be properly exercised.
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QUESTION 7

By an Agreement for Sale dated January 1, 2004, Jerry Lee agreed to purchase premises known as 99 Rose Ave. from Tom Green. The agreement includes, *inter alia*, the following provisions:

- (a) Completion Date: Within 90 days from the date of this agreement.
- (b) Special Conditions: This agreement is subject to the Vendor obtaining Subdivision approval of the land into 15 half-acre lots.

On March 29, 2004, Jerry Lee, through his attorney-at-law, requested a further 30 days to complete the sale because the processing of the mortgage was taking longer than he anticipated. Tom is rather surprised since he always thought that Jerry Lee was paying in cash. However, Tom has told you that in any event he will not mind some extra time because he has not yet received subdivision approval, but is confident that approval would be granted within the next few days.

- (a) Advise Tom how he should deal with the request.
 - (b) Draft an appropriate notice to be sent to Jerry Lee.
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QUESTION 8

Richard bought a house 20 years ago in a building scheme, which restricted his user to residential uses only. However, Richard has been offering a limited barber service to some of the residents of the scheme for the past 10 years that has been so successful that he wants to expand the service into a full time one. This would require that he converts a part of his house into a barbershop. During the past five years a gas station with a mini-mart attached and a school have been erected on some of the lots that were left vacant.

- (a) Advise Richard on the grounds on which he can establish a case to remove or modify the covenant.

 - (b) Outline the procedure on the application.
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