

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1995

CONVEYANCING AND REGISTRATION OF TITLE

(Thursday, August 10, 1995)

Instructions to Students

- (a) Time 3 1/2 hours
- (b) Answer FIVE questions.
- (c) In answering any question, a student 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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

John and Jane together with their two children, Junior and Betty, are tenants in common in equal shares and the registered proprietors in fee simple of their home known as 10 King Road. John died on January 1, 1995 having by his will appointed Eric and Egbert his executors and devised his share in 10 King Road to Junior. The will has now been probated and the estate wound up.

- (i) Prepare in draft the necessary documents to effect the change of proprietorship.
 - (ii) How should the title be endorsed?
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QUESTION 2

You act for Victor who has contracted to sell his premises known as No. 10 Main Street, Bay Town to Percy. Annexed to the premises is the following restrictive covenant -

"Not to erect any building or structure on the said land nearer than twenty feet from any road fronting the land nor less than five feet from any other boundary of the said land."

Percy has now complained to Victor that he has been informed by his intended mortgagees that the Surveyor's Report indicate that a building on the land extends to within two feet of the rear boundary and that they are reluctant to proceed with the mortgage.

Victor now consults you with a view to the completion of the transaction and avoiding liability for breach of contract.

- (i) How would you proceed?
 - (ii) Prepare in draft form the documents to commence such proceedings as may be necessary.
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QUESTION 3

(a) D wishes to develop his land known as Lot B, by the construction of a condominium thereon, and consults you on the steps that should be taken to implement his scheme.

Advise D.

(b) In respect of the purchase of a condominium unit, what preliminary enquiries, searches and requisitions would you make? Would different considerations apply if the complex is now being constructed or if the complex has been in existence for some time?

QUESTION 4

(a) What effect, if any, does the lodging of a caveat (caution) have on the competing claims of equitable owners of the same land?

(b) By what devices can an equitable mortgagee secure for himself the power of sale?

QUESTION 5

Reginald is the proprietor in fee simple of 10 acres of land and wishes to sub-divide it for sale as residential lots for the construction of single family dwelling houses.

- (i) Advise Reginald on the steps to be taken to sub-divide the land.

 - (ii) Draft a form of transfer for execution by each purchaser to ensure that the relevant restrictive covenant will be binding not only on present but on all future owners of lots comprised in the sub-division.
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QUESTION 6

Richard is the proprietor of 10 acres of land registered at Volume 1 Folio 2. In 1990, Richard mortgaged the land to Finance Ltd. and the mortgage was duly endorsed on the title. Finance Ltd. has now informed Richard that they are unable to locate his title document and that they believe that it was stolen on the occasion that their offices were recently broken into.

- (a) Prepare in draft any document or documents you consider indicated in the circumstances.
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QUESTION 7

Paul has agreed, subject to contract, to purchase a freehold property with vacant possession from Vernon. On receipt of the draft contract, Paul discovers that Vernon purports to sell as mortgagee under his statutory power of sale.

- (i) To what extent, if at all, does Paul need to be satisfied about Vernon's right to sell?
 - (ii) Is it material to either party that the purchase price appears to be below the market value by some 20%?
Give reasons.
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QUESTION 8

You act for P, who has contracted to purchase from V a freehold house with registered title free from encumbrances. Money Ltd. has given its letter of commitment to grant a mortgage loan of \$2 Million. There is an outstanding mortgage debt on the house.

- (i) Outline the procedural steps to completion of the transaction and the disbursement of the mortgage loan by Money Ltd.
 - (ii) Draft any necessary undertaking(s).
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