

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1996

CONVEYANCING AND REGISTRATION OF TITLE

(THURSDAY, August 15, 1996)

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.

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MONA, KINGSTON, 7. JAMAICA

QUESTION 1

(a) In 1984 Miss Knott expended \$50,000 toward the cost of constructing a two-bedroom dwelling house on a piece of unregistered land owned by Mr. Tye, her common law husband. In 1990, Miss Knott and Mr. Tye agreed to sell the house and land and to invest the total proceeds in the purchase of another house registered at Volume 1130 Folio 247 of the Register Book of Titles as joint owners.

The transfer however, unknown to Miss Knott, was made out in favour of Mr. Tye, who was registered as the proprietor. Miss Knott now consults you and instructs that Mr. Tye has expelled her from the house and that he has just contracted to sell the house. She wants to know what rights, if any, she has in respect of the property in question and how she may safeguard these rights.

Advise her, stating what preliminary steps you would take.

(b) Tim and Tom are joint tenants in respect of an unregistered parcel of land situate at Low Ground in the parish of St. Mary, which they inherited under the Will of their late father Joe, who

died in June 1995. The Will was probated on March 1, 1996, by the executor Bill, who assented on March 15, 1996, vesting the land in Tim and Tom. Tim has agreed to sell his interest in the said piece of land to Tom for the sum of \$500,000.

New Era Bank Limited, which has a mortgage on the said land, contracted prior to the death of Joe, has consented to the sale and is willing to release Tim from all obligations under the mortgage provided that Tom will assume full responsibility for the repayment of the mortgage loan.

Draft the appropriate Conveyance.

QUESTION 2

Vernon Beattle is the owner of 5 acres of land which he wishes to subdivide into ten half-acre lots for the construction of townhouses for sale. However, it is stated on the title that there

shall be no subdivision of the land into lots less than one acre in size.

Vernon consults you as to how he should proceed to get the restriction modified and also as to how he should proceed to obtain subdivision approval.

Advise him.

QUESTION 3

(a) Carlton who is the registered proprietor of 3 acres of land wishes to develop the land as a condominium complex. The land is mortgaged to the New Era Bank Limited to secure a loan of \$5m.

Advise Carlton.

(b) Clover wishes to purchase a unit on completion of the above scheme and wants to know what would be her rights and liabilities and the nature and manner in which such a corporation is operated.

Advise her.

QUESTION 4

John and Mary were registered as the joint proprietors in fee simple of a dwelling house registered at Volume 3071 Folio 424 of the Register Book of Titles. The title is being held by the A.B.C. Building Society as security for a loan to John and Mary. John died in March 1990. You act for Mary who wishes to have her name registered as sole proprietor.

(i) What steps should be taken?

(ii) Draft the appropriate application.

QUESTION 5

Valentine and his wife Juliet, are the registered proprietors of a 200-acre farm in Saint Ann, registered at Volume 7071 Folio 329 of the Register Book of Titles. They were registered as tenants-in-common and lived on the farm.

Valentine, who died in 1992, by his Will appointed Elgan his executor. He devised his one-half interest in the farm to their infant son, Boysie, aged 12 years. Juliet now wishes to give up the farm and to make her home in the city along with Boysie. Woody, a developer has made what appears to be an excellent offer to purchase the farm.

- (a) How would you proceed with a view to the sale to Woody?
 - (b) Draft a transfer to Woody.
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QUESTION 6

Reginald, the registered proprietor of 6 acres of land, the title being registered at Volume 9071 Folio 242 of the Register Book of Titles, by an agreement in writing dated December 1, 1995, agreed to sell the land to Pinnock who was then put in possession but has never lodged a caveat to protect his interest.

In January 1996, Reginald received a loan of \$100,000 from Investment Bank Limited by way of equitable mortgage by deposit of his title and by executing a Power of Attorney in favour of the bank giving it the power to execute a legal mortgage on his behalf, if necessary.

In February 1996, the bank lodged a caveat to protect its equitable mortgage. Later, the bank learnt of the agreement between Reginald and Pinnock. Reginald has not paid any of the monthly installments since he received the loan and is currently three months in arrears. The bank has consulted you.

Advise the bank -

- (a) on the matter of priority;
 - (b) as to how they may proceed to enforce their rights.
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QUESTION 7

(a) The executors of the Will of Donald, deceased, assented to the vesting of a dwelling house registered at Volume 1049 Folio 547 of the Register Book of Titles in favour of Ben, who was duly registered as the proprietor. Ben has contracted to sell the house to Paul and the transfer has now been executed. However, a caveat against dealings has been lodged by Carl, who is apparently claiming that the Will is a forgery and that he is entitled to an interest on intestacy.

Advise as to the procedures that may be adopted with a view to the registration of the transfer and the duties of the Registrar of Titles.

(b) Outline the requirements and the procedure for foreclosure.

QUESTION 8

(a) Under a contract for the sale of land, the purchaser's attorney-at-law has verbally requested of you as attorney-at-law for the vendor, an extension of time of 21 days to complete the transaction.

(i) How would you deal with the request? Give reasons.

(ii) Draft an appropriate reply granting the extension.

(b) Advise the purchaser of land who wishes to rescind his contract in the following circumstances -

(i) the vendor, to date, has not yet applied for probate of a Will in which he was named as executor and the date for completion is within three weeks;

(ii) the vendor, who is a life tenant, has not to date given any notice of the sale to the trustees.
