

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1997

CONVEYANCING AND REGISTRATION OF TITLE

(Tuesday, August 12 , 1997)

Instructions to Students:

- (a) Time: 3½ Hours**
- (b) Answer FIVE questions only.**
- (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.**

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

In 1970 "The Retreat" was devised to Bert Rammy and Sylvia Jones, farmer and cosmetologist, as joint tenants.

Bert Rammy has recently died and Sylvia has entered into an agreement to sell "The Retreat" to Madge Moreluck for \$2,000,000.

How may Sylvia effect title to Madge Moreluck, if the land is -

- (a) registered;
- (b) unregistered ?

QUESTION 2

Ray and Mary Goodeal were the owners as joint tenants of two properties known as Newforrest and Frontier, both in the Parish of St. Hope. Newforrest is unregistered land while Frontier is registered land . They purchased both parcels in 1987 from Public Bank Limited who sold the properties under their power of sale at public auction. Mary died last year in 1996. Raymond would like to emigrate so he enters into an agreement to sell the properties to Real Deal Company Limited. Real Deal Company Limited intends to take a mortgage from Patience Bank Limited in order to pay for the properties.

You are retained by the proposed mortgagees.

Advise them as to title.

QUESTION 3

Gemma Rousseau is the owner of a parcel of registered land comprising three acres. She would like to develop the land into residential lots for sale. In order to do so, she incorporates a company called Investment Lands Limited of which she is the majority shareholder and chairman. She intends to transfer the land to the company and to take a mortgage of \$2,000,000 from Public Bank Limited to finance the development.

(i) Advise Gemma, on the steps to be taken, in chronological order, to ensure that at the time of sale each purchaser takes a good title free from all encumbrances.

(ii) Advise Gemma on the documents and information likely to be required from her by Public Bank Limited.

QUESTION 4

Write short notes on (a) and any other three of the following -

- (a) Foreclosure proceedings in respect of either (i) unregistered land or (ii) land under the Registration of Titles Act.
- (b) Quit Claim Deed.
- (c) Root of Title.
- (d) "A purchaser of land from a tenant for life can safely pay the full purchase price to the tenant for life without seeing to application of it".

- (e) (i) "A matter of conveyance" as against "a matter of title".
- (ii) Bridge financing.
- (iii) Consolidation.
- (f) The distinction between the system of registering registered land and registering/recording unregistered land.
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QUESTION 5

By his Will, made in 1975, Thomas Smith appointed Edgar James his executor and Tim Brown and Theo Bell his trustees. He devised his land, containing by survey 20 acres, to Ann Smith for life, thereafter to Raymond and Roger Smith absolutely. Probate was granted in 1995 and the estate has now been wound up. Percival Stevens has contracted to purchase the 20 acres of land.

Draft a form of Conveyance to Percival Stevens.

QUESTION 6

Compare and contrast the process in an application to subdivide land as against the process in an application to obtain strata/condominium titles.

QUESTION 7

Roland has obtained subdivision approval in respect of an application to subdivide his 10 hectares of land comprised in Certificate of Title registered at Volume 563 Folio 90 of the Register Book of Titles into 10 one-hectare lots. The land is subject to a mortgage with Solid Bank Limited, Roland having borrowed \$600,000 against the title. Roland has contracted to sell Lot 3 to Peter Goodluck for \$1,000,000. He has now obtained a pre-checked plan of the approved subdivision and retains you to make application to the Registrar of Titles with a view of obtaining splinter titles in respect of each lot and of issuing title to Lot 3 to Peter free from any encumbrances.

Outline the procedure to be followed by you and draft the application by Roland.

QUESTION 8

Jimmy Hardluck urgently needed a loan for a short period and his friend Percy Plenty agreed to lend him \$75,000 on the security of his land title in respect of the family home held by Hardluck and his wife Cynthia as joint tenants.

Six months ago, Percy gave to Jimmy \$75,000 in exchange for the title delivered to him by Jimmy and a Power of Attorney executed by Jimmy authorizing Percy to execute a mortgage for and on his behalf should Percy be compelled to enforce the security. Jimmy has made no effort to repay the loan and in fact Percy has just learnt that Jimmy has lost his job.

- (i) Advise Percy

 - (ii) How can an equitable mortgagee protect his priority if -
 - (a) the title is registered;

 - (b) the title is unregistered.
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