

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 2002

CONVEYANCING AND REGISTRATION OF TITLE

(WEDNESDAY, AUGUST 7, 2002)

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

In 1998, Jilli spent \$120,000 towards the cost of constructing a three-bedroom house on a parcel of land which her husband Samson's father had given him. She also helped by expending physical labour during the construction.

In 1999 Jilli and Samson agreed to sell their house and land and to invest the proceeds in the purchase of another house as joint tenants. Samson had, unknown to Jilli, applied for registration and he is registered as sole proprietor of the improved land.

Jilli consults you and tells you that Samson has ousted her and their children from the house and that he has just contracted to sell the premises. She wants to know what rights, if any, she has in respect of the property in question and how she may safeguard and realise her rights in the said property.

Advise Jilli.

QUESTION 2

Percy is interested in acquiring Grey Acre, a parcel of unregistered land, from Ezza Austine. Percy, who consults you, tells you that he is insisting that the title to Grey Acre be registered in his name in order to complete the sale. Percy confesses that he is taking this approach because he has learned that Ezza does not have any 'paper title' and the land was once owned by Jomo Sangster from whom Ezza had rented the land some years ago.

Percy tells you further that he is 'definitely interested' in buying the land and obtaining a registered title.

Advise Percy –

- (i) whether he could insist on having a registered title on completion;
 - (ii) of the necessary procedure for accomplishing this objective.
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QUESTION 3

- (a) "Where equities are equal the law will prevail." Discuss this statement.
- (b) Investments Limited wish to lend a certain sum of money to Major on the security of Major's title but without the formalities of a legal mortgage. Investments Limited seek your advice on whether this can be done, and if so, how their priority could be protected.

Advise Investments Limited.

QUESTION 4

Marcia proposes to sell her commercial premises known as 6 Wonder Way to Audrey and Ben Dyrud for \$4.5M. The premises comprise two retail shops, a beauty salon and a restaurant. The retail shops are leased to Joe and John

respectively and each has a residue of five years unexpired term. The beauty salon is let on a monthly tenancy to Nell.

The restaurant is occupied and operated by Marcia. Marcia, Audrey and Ben have orally agreed, inter alia, to the following terms -

- Audrey and Ben will keep the tenants.
 - Audrey and Ben will allow Marcia to occupy and operate the restaurant for about three years but leaving in place all furnishings and equipment.
 - Audrey and Ben will need to obtain a mortgage loan after paying the deposit.
- (a) Prepare in draft an appropriate Agreement for Sale.
- (b) What preliminary enquiries and searches do you consider are indicated in the circumstances?
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QUESTION 5

- (a) Devon intends to purchase 1 acre of land part of 10 acres owned by Raphael Weldon. Devon consults you and instructs you to represent him in the transaction.

Advise him as to the steps that Raphael Weldon should take in order to complete the sale to him of the 1-acre parcel. Outline the procedure involved.

- (b) O'Juan Paul entered into a contract with Raphael Weldon for the purchase of 1 acre of land. O'Juan has paid the deposit and the date for completion is six weeks away. To date Raphael Weldon has taken no steps to subdivide the land.

O'Juan consults you and tells you that under the circumstances he now prefers to invest in another housing scheme.

Advise him and draft an appropriate notice to Raphael Weldon.

QUESTION 6

Advise Vencito, the purchaser who wishes to rescind his contract, in each of the following circumstances.

- (a) The Vendor, at the time of the contract, did not disclose the state and style of the plumbing. No water gets into the pit with the result that a substantial part of the building will have to be demolished and rebuilt.
- (b) The Vendor has not yet obtained probate of a Will in which he was named executor and the date for completion is fast approaching.
- (c) The Vendor, at the time of the contract, did not disclose that planning permission for the type of development contemplated by the purchaser, to the knowledge of the Vendor, was recently refused in the interest of preserving the locality as a recreation area.

QUESTION 7

Write notes on three of the following indicating the significance as regards conveyancing practice -

- indenture
 - open contract
 - compulsory registration
 - qualified title.
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QUESTION 8

You have been asked by your Bar Association to write a balanced opinion on the advantages/disadvantages of investigating title as a pre-contract rather than a post-contract exercise.

Write the opinion and make such recommendations as you consider feasible under the circumstances.
