

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2011

CONVEYANCING AND REGISTRATION OF TITLE

(WEDNESDAY, AUGUST 3, 2011)

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

Jamie Santana has entered into a contract to purchase property from Penelope Johns for \$11 million. Inquiries and searches conducted revealed the following:

- (a) The surveyor's report reveals that the total land area is 9,800 square metres and not '10,000 square metres more or less' as stated in the agreement for sale;
- (b) A notice had been sent to Penelope by the planning authorities more than six months ago citing her for breach of the zoning regulations and threatening legal action if she did not immediately cease and desist from using the property for commercial activities. Penelope had assured Jamie that his plans to convert the building into a manufacturing plant would be good for the community and that she does not anticipate any resistance to the idea. Penelope did not tell Jamie that she had received a notice from the planning authorities; and
- (c) The fixtures are in such a state of disrepair as a result of corrosion and dry rot that they will all have to be replaced.

Jamie is contemplating rescinding the contract and is seeking your advice on how each of the above concerns affects the contract.

Advise Jamie.

QUESTION 2

You have been asked by the partner with whom you work to meet with Charlie Proudfoot III, a new client, on a matter concerning a parcel of land that he inherited, by will, from his grandfather, Charlie Proudfoot I. Charlie claims that the land has been in

the Proudfoot family for many years. He is now thinking of getting registered title to the property.

In anticipation of your meeting with Charlie, prepare notes –

- (i) to guide you through the process of advising him on the matter; and
 - (ii) setting out the procedural steps you would take to investigate title to the land.
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QUESTION 3

You are one of the legal officers employed to Banco Islanda Ltd in the bank's legal department. The bank is updating its manual for the officers assigned to the mortgage and loans department.

You have been asked to assist by preparing a comprehensive checklist of the procedural steps that must be followed when the bank wishes to exercise its power of sale pursuant to a mortgage. Include short notes on the considerations that would inform the steps outlined.

QUESTION 4

Imran and his deceased sister, Patrice, are registered as joint tenants of the fee simple interest of property known as 155 Zander Ave. Imran is the sole executor of Patrice's estate and probate has already been granted.

Imran now seeks your advice as to what steps he must take to allow him to deal with the Zander Ave property as he is contemplating selling the property.

Advise Imran, indicating any document(s) he will require and the necessary information to complete such document(s).

QUESTION 5

Mercedes is the sole executrix and trustee of the estate of her brother Kevin. The Will provides, *inter alia*, as follows:

“...I devise to my son Junior my house located at 210 Inheritance Drive for his use and enjoyment and on his death to my beautiful granddaughter Abigail.”

Mercedes tells you that Junior is anxious to have Kevin’s estate fully administered because he wants to sell the house to help pay for a seven bedroom mansion that he is buying.

Mercedes further tells you that Kevin specifically arranged his affairs in the way he did because he was aware of Junior’s spendthrift tendencies and was concerned about the future of his granddaughter. Mercedes is quite concerned about the matter and wants to know what can be done to ensure that Abigail’s interest is not compromised.

Prepare your written advice to Mercedes outlining:

- (i) the procedural steps that Junior must follow to sell his interest in the house;
 - (ii) how the proceeds of sale must be dealt with; and
 - (iii) Mercedes’ role in the sale as executor and trustee under the Will.
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QUESTION 6

John Bellamy tells you that in 2006 he started a property valuation firm with two other partners Jack and Jim. John says that the three partners agreed to purchase a property from which they have been conducting the business. Title to the property is registered in the names of the other two partners, Jack and Jim, as joint tenants of the fee simple interest. John explains that at the time a strategic decision was taken that his (John's) name would not be on the title.

John shows you a letter signed jointly by Jack and Jim that states, *inter alia*, that his services as a senior valuator were no longer required as the business was being restructured to meet the challenges of the global economic crisis. A cheque was enclosed, representing redundancy payment due to John, and thanking him for his service to the business.

John is furious as he believes his interest in the property is in jeopardy, especially because his name is not on the title, and is seriously considering legal action against Jack and Jim.

- (i) Prepare your written advice to John outlining the procedural steps he should take, prior to taking court proceedings, to protect any interest he is claiming in the property.
- (ii) What are the options open to Jack and Jim in response to any step that John may take pursuant to your advice in (i) above.

QUESTION 7

Pauletta Palmer, a businesswoman, is the proprietor of the fee simple interest in land located at 100 Housing Lane. Pauletta wants to build an apartment complex with the hope of selling all of the units.

The property consists of a three bedroom bungalow with the following restrictions on title:

- “...1. The said land shall not be subdivided.*
- 2. The lot and all buildings thereon shall not nor shall any part of the lot or any erection thereon at any time be used otherwise than as one single private dwelling house and the appurtenances thereof and any such dwelling house shall not cost less than One Hundred Thousand Dollars.”*

Pauletta is anxious to get the project started and wants to apply to the court to modify and/or discharge the restrictions.

Prepare the affidavit in support of the application for modification and/or discharge of the restrictions on title.

QUESTION 8

You have been asked to meet with Maria, a first time purchaser, who is purchasing a studio apartment in an existing development.

In preparation for your first meeting with Maria, prepare a checklist of the matters you consider important to advise her on, including the following-

- (i) the usual preliminary searches, post contract inquiries and requisitions; and
 - (ii) the general contract terms she should expect to see in the agreement for sale.
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