

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2015

CONVEYANCING AND REGISTRATION OF TITLE

(AUGUST 11, 2015)

Instructions to Students

- (a) Time: **3½ 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 black or dark blue ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Lincoln Hale and his wife Edna lived and worked in the United States of America for over 20 years. During their time abroad, and in contemplation of returning home on retirement, they sent money from time to time to Edward, Lincoln's brother. The understanding was that Edward would use these funds to cover the cost of purchasing a lot of land for the couple and have a house constructed thereon.

Over the years, Edward used the funds for these purposes. Edward also provided Lincoln and Edna with invoices of expenses incurred in the purchase of the land and the construction of the house. The Hales are also in possession of wire transfer receipts from their bank confirming the transfer of the funds to Edward.

Lincoln and Edna have returned home and have discovered that the property that Edward bought with their money, is registered in Edward's name and that he has advertised the property for sale in the daily newspaper.

Advise Mr. and Mrs. Hale on:

- (i) the procedural steps, apart from court proceedings, that they can take against Edward to protect their interest, as a matter of urgency; and
- (ii) the options that would be open to Edward should they act on your advice in (i).

Your advice in (i) and (ii) should make reference to any documents you deem necessary and the information required to complete them.

QUESTION 2

Under the terms of his will, Sam Rampersad, who is registered as the sole proprietor of the fee simple interest in a three-bedroom townhouse, devised the property to his sister, Sandra, for life, and thereafter to Russell, his nephew.

The property is registered at Volume/Block 100 Folio/Parcel 12 of the Register Book of Titles/Land Register.

The executors named in the will have obtained a grant of probate and now consult you with a view to the vesting of the property in accordance with the terms of the will.

- (i) Advise on the procedural steps to be followed.
- (ii) Outline the contents of each of the documents required for the selected procedure.
- (iii) How should the title be endorsed?

QUESTION 3

By Agreement for Sale dated June 1, 2015, Stanley Reid agreed to sell, and Ansel Powell agreed to buy, Stanley's fee simple interest in property registered at Volume/Block 435 Folio/Parcel 123 of the Register Book of Titles/Land Register for \$6,000,000. The contract is an open contract and completion has been set for August 31, 2015.

Stanley died suddenly on June 12, 2015, before executing an instrument of transfer. Stanley's widow, Roma, has sought your advice on how she should proceed in the circumstances.

Roma tells you that Ansel has been most unsympathetic and unreasonable in that shortly after Stanley died, Ansel called her about completing the sale as he was also selling his property and would need possession on the completion date stipulated in the sale agreement.

She tells you that she has also received a letter from Ansel's attorney-at-law, Mr. Patrick Singh, advising that the sale of Ansel's house was completed on July 29, 2015 and Ansel has since then been living in a hotel, pending completion of the sale transaction with her husband.

Roma explains to you that she is the sole executor and beneficiary of her husband's estate, and that probate has been granted. However, she has been traumatised by her husband's sudden death, and needs your assurance that she can proceed to completion. She would really prefer not to have to deal with Ansel.

Advise Roma on the procedural steps that she will be required to follow in order to complete the sale. In your advice you are to identify any document(s) she will require and the necessary information to complete such documents.

QUESTION 4

Louise Pazos is registered as a joint proprietor of the fee simple interest in property situated at 21 Bluerange Gardens. The other joint proprietor named on the title is her father, Ralph Pazos, who is now deceased.

Louise, the executor of her father's estate, is trying to sort out the estate, and seeks your assistance in doing so.

Louise tells you that she has gone through all of her father's papers and personal belongings at his home at 41 Palmetto Avenue and is unable to find the Duplicate Certificate of Title/Land Certificate for the Bluerange property. She says that all of her father's important documents were kept in a filing cabinet in his bedroom. However, having searched there, she did not find the document. She has also checked with his bank to ascertain whether he held a security box with them. The bank has advised her that he did not.

Prepare a letter to Louise advising her on the procedural steps she should take to deal with the interest she holds as the surviving joint proprietor of the Bluerange property. Your advice must identify any documents you deem necessary and the information required for completing them.

QUESTION 5

Elena and her husband, Ian, have for the past 10 years run a very successful car rental business.

In 2009 they obtained a loan of \$6 million from the Royal Citizens Building Society (the Building Society) to assist with the expansion of the business. The loan was secured by a property owned jointly by the couple, located at 74 Fairview Heights, which is in an upscale residential neighbourhood. The property is comprised of a five-bedroom executive type dwelling house, on 2 acres of land, with a large pool along with tennis and squash courts situated thereon.

Over the past year, business has slowed down significantly as a result of the global economic crisis. As a result of the difficulties they have been experiencing, Elena and Ian have not made the monthly payments due to the Building Society for four consecutive months.

Ian and Elena tell you that they are quite upset and embarrassed, because the property was included in a list of properties published in a local newspaper about two weeks ago, advertising a public auction sale by the Building Society acting under its power of sale. They mention to you that the advertisement read as follows:

“Dwelling house for sale pursuant to power of sale contained in a mortgage. Property registered at Volume/Block 44 Folio/Parcel 15. Public auction to be held at the offices of DCP Auctioneers, 42 Winchester Road on August the 19, 2015...”

They have said that they were never told by the Building Society that the property was going to be sold.

They further tell you that, having seen the advertisement, they called immediately to make an appointment with the Building Society’s manager, Peter Rodriguez, but without success. They thereafter forwarded to him, in writing, a proposal for reduced monthly payments towards the loan for a few months. They recently received a response rejecting their proposal on the ground that the Building Society has already agreed in principle to sell the property to Dennis Trott by private treaty. Ian tells you that he understands that Dennis Trott is a business partner of the Building Society’s managing director, and that the agreement for sale is being prepared for execution by the Building Society’s attorneys.

In preparation for a meeting with Ian and Elena prepare the following:

- (i) a checklist of the specific matters to be taken into account in order to determine whether the Building Society has acted properly in attempting to exercise its power of sale; and
- (ii) an outline of the options that may be open to Ian and Elena in the circumstances.

QUESTION 6

Debbie Gibbes has approached you to assist her in the purchase of Unit 18 in the commercial shopping complex known as “Long Circular Plaza”. The complex consists of a three-storey building with 30 units. Unit 18 is located on the second floor.

Debbie and her sister, Karlene, run a chain of hairdressing salons in the jurisdiction. Debbie tells you that they want to set up a hairdressing salon in Unit 18, as they believe that the location is likely to attract a large number of businesswomen who work in the area.

Debbie instructs you that she will need a mortgage to complete the purchase. She also mentions that she would like to take possession as soon as possible, so that the unit can be renovated and outfitted, in time for the formal opening of the salon, which is set to take place on August 31, 2015.

In preparation for your meeting with Debbie, prepare a checklist of the matters you consider important to advise her on, as a purchaser of Unit 18, including the following:

- (i) the preliminary searches and inquiries that should be undertaken;
- (ii) the general contract terms she should expect to see in the agreement for sale; and
- (iii) any special conditions you would recommend for inclusion in the agreement for sale.

QUESTION 7

Marcelle has recently learnt that under the terms of her deceased grandfather's will, she is entitled to a two-acre parcel of land. On further discussion with the executor of the will, she learns that the land is unregistered land.

Advise Marcelle on the procedural steps she would have to take to register the land. Your advice must refer to any documents required and their contents.

QUESTION 8

Edith and Oswald got married in their early seventies. Oswald was a retired businessman with extensive investments, which allowed him to enjoy a comfortable standard of living. Edith was a teacher, with limited financial resources available to her.

Edith moved into Oswald's four-bedroom house which was located at 44 Maraval Road in an exclusive neighbourhood known as Westmoorings. Oswald died shortly thereafter.

In his will, Oswald devised the Maraval Road property to Edith for life, and on her death to his niece Rosa, a 23 year old student attending the university in the jurisdiction. He appointed his two close friends and lodge brothers, Denzil and Arthur, the executors and trustees under his will.

Edith does not understand the nature of the interest she is entitled to under the provision in the will. She wants to migrate to the UK where she has relatives. Her desire is to sell the house

and use the proceeds to buy a small flat in London. She comes to you, seeking your advice as to what she can or cannot do in relation to the house.

Prepare your written advice to Edith outlining:

- (i) whether she is entitled to sell the house;
- (ii) if she is entitled to sell, how the proceeds of sale must be dealt with; and
- (iii) any other options open to her in relation to dealing with her interest in the house.

END OF PAPER