

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS 2024

CONVEYANCING AND REGISTRATION OF TITLE

(TUESDAY, JULY 30, 2024)

Instructions to Students

- (a) Time: **3½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any question, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **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. Erasable pens are not allowed.
- (f) Calculators may be used and are provided.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

## **QUESTION 1**

Mathew and Mary Gordon lived at 12 Montgomery Lane in the jurisdiction along with their two adult sons, James and John. During the marital years, the couple was not able to accumulate significant savings as Mathew suffered from sickle cell disease. Funds always had to be diverted to cover the cost of medical treatment, when he went into crises, to control and manage his condition.

Mathew succumbed to the disease in April 2018. By his Will, Mathew devised a 12-acre parcel of land in Machel District, St Tomas (the Property) in the jurisdiction to Mary for life, with remainder to James and John as joint tenants. Mary is the sole executrix and no trustees were appointed under the Will. A Grant of Probate has been obtained in the Estate of Mathew, and the interests of Mary and the children have been endorsed on title.

Mathew's death has placed the family in a very precarious financial position as Mary is still indebted to the hospital for Mathew's medical expenses, and her salary barely covers the family's basic living expenses. The older son, James, works with a business process outsourcing call centre in the jurisdiction, which finances his part-time studies in economics at the university. The younger son, John, just got accepted into medical school and is researching scholarships to finance his education.

Mary has been approached by a well known property developer in the jurisdiction, New Beginnings Properties Limited, which has indicated an interest in purchasing the Property to develop service lots for sale.

James does not approve of the proposed sale. He conducted research and found that the real estate market is depressed, and prices are down approximately 30 percent from the previous year. He has suggested that his mother wait for the market to improve before she contemplates selling. In addition, the Ministry of Housing in the jurisdiction has commenced construction of a four-lane highway near the Property and this would, when completed, materially increase its value.

Mary is uncertain as to how she should proceed as she needs an immediate injection of funds because the bills are mounting. She wants to clear the debt and contribute towards John's medical school tuition.

Having regard to the manner in which her husband Mathew devised the Property to her, she is not sure what she can do with it.

Write a letter to Mary advising her as to:

- (a) the options that are available to her for utilizing the Property to generate funds for herself and her family, and the considerations she must bear in mind when doing so; and
  - (b) the legal issues arising from the fact that no trustees have been appointed under the Will and the steps she would need to take to address these issues. You must refer to any document(s) required, and the contents thereof.
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## **QUESTION 2**

In November 2023, Melissa Cooper orally agreed to sell to Jessica Bell, her best friend, all her fee simple interest in property registered at Volume/Block 2777 Folio/Parcel 522 of the Register Book of Titles/Land Register for the price of US\$190,000. In December 2023, Jessica confirmed the agreement in a letter to Melissa and enclosed US\$38,000 as the agreed part-payment on account of the purchase price. The letter further confirmed that she would pay the balance purchase price of US\$152,000, in exchange for title, on or before February 29, 2024. Melissa issued Jessica with a receipt for the payment received.

On January 15, 2024, Jessica called Melissa to advise her that she would not be in a position to complete on the agreed date because she (Jessica) was still awaiting money from the sale of her house, to settle the balance purchase price due to Melissa. The following day, Jessica's attorney-at-law wrote to Melissa advising that Jessica would require an extension to March 31, 2024 to complete.

Melissa is livid at this turn of events. She says that in the preliminary discussions, Jessica had assured her that she had readily available funds with which to purchase the property. It was for this reason that Melissa had accepted Jessica's offer, ahead of the other offers she had received.

Melissa reluctantly agreed to the extension. The extended date for completion has passed and to date Jessica has not contacted Melissa in relation to the completion of the sale. Melissa has heard 'through the grapevine' that Jessica had wanted to earn a quick buck, had withdrawn her savings from a reputable investment house and had subsequently invested same with Universal Wide Group, which was later discovered to be a Ponzi scheme that had collapsed.

Melissa is incensed as she believes she is being taken for granted by Jessica and has instructed you, her attorney-at-law, to write to Jessica immediately, advising that she is no longer interested in completing the sale, as the agreement was not valid and that she will keep the entire payment of US\$38,000 for her suffering.

You are required to prepare a letter to Melissa outlining your advice on:

- (a) whether you can comply with her instructions, giving reasons; and
- (b) the steps you recommend that she should take to deal with her concern over Jessica's failure to complete the purchase of the property. You must identify any document(s) you consider necessary in the circumstances and the contents thereof.

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### **QUESTION 3**

Hyacinth Brown is a licensed nutritionist who operates a catering business at 10 Mayfair Avenue in the jurisdiction. She supplies organic meals, smoothies and supplements to an upper middle class clientele.

In 2021, she decided to expand the business and obtained a loan of US\$50,000 from Advantage

Bank Limited (the Bank) to assist with the expansion. The loan was secured by mortgage on land owned by Hyacinth and located in the district of Westport. Having received the consent of the Bank, she entered into a lease with Fresher Foods Limited (Fresher), her investment partner, to build out hydroponic farming infrastructure and factory space on the property. This would ensure a reliable supply of produce to her catering business and a source of revenue. The expected lease payments would service the mortgage debt.

Fresher has informed Hyacinth that since 2023, the profitability of the business has declined as a result of inflation and supply chain issues. Fresher has not paid the rent and as a result Hyacinth has fallen into arrears with her mortgage payments for the last six months. She visited your office on July 29, 2024, and instructed you as follows:

1. Her property was included in a list of properties published in a local newspaper about two weeks ago, advertising a public auction sale by the Bank, acting under its power of sale.
2. The advertisement read as follows: "Vacant lot for sale pursuant to Powers of Sale contained in a Mortgage. Property registered at Volume/Block 3200 Folio/Parcel 562. Public auction to be held at the offices of Property Dynamics, Auctioneers on Friday, August 9, 2024".
3. On seeing the advertisement she immediately contacted the loans officer and requested a six-month moratorium on mortgage payments. The Bank responded telling her that it was too late and that it will be proceeding to sell the property as advertised.
4. She is quite upset as she had not received any notification from the Bank that it intended to sell the property.
5. She informs you that at the time of the publication of the advertisement, the construction of the factory was 80 percent complete, irrigation pipes were already installed on the property and that she has a current valuation of the property for US\$150,000.
6. She is quite concerned as she has heard that the property is being sold for US\$45,000

which is the exact amount in terms of principal and interest that is outstanding under the mortgage as at August 2024.

Prepare a memorandum to your managing partner advising whether the Bank has acted improperly in attempting to exercise its power of sale, setting out the specific matters to be taken into account to determine this, and any recourse Hyacinth may have against the Bank.

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**END OF PAPER**