

QUESTION 1

Reginald is the registered proprietor in fee simple of Lot B registered at Volume 1 Folio 2 of the Register Book of Titles. On January 2, 1993, Reginald mortgaged Lot B to Mortimer & Co. Ltd. to secure a loan of \$3M. On February 2, 1994, Reginald contracted to sell Lot B to Preston for \$5M, free from encumbrances.

The usual deposit was paid directly to Reginald and Preston was let into possession pending completion, with the knowledge and approval of Mortimer & Co. Ltd. However, since the date of the contract for sale, Reginald has fallen into arrears in respect of the mortgage and Mortimer & Co. Ltd. have decided to exercise their power of sale to the chagrin of Preston.

Advise -

- (i) Mortimer & Co. Ltd. in terms of the exercise of their power of sale and of selling with vacant possession and as to whether they can sell Lot B for \$3M.
 - (ii) Preston as to any rights he may have.
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QUESTION 2

Robert and Rebecca are jointly registered as proprietors in fee simple of Lot C comprised in Certificate of Title registered at Volume 10 Folio 5 of the Register Book of Titles. On May 1, 1990, they obtained a mortgage, duly registered, from Morgan & Co.

Ltd. in the sum of \$5M. on the security of Lot C and are up to date in their payment of principal and interest. Robert and Rebecca now wish to transfer Lot C solely to Robert, whereupon Robert will become solely responsible for the balance of the mortgage debt.

You act for Robert and Rebecca and you find that Morgan & Co. Ltd. are only willing to agree to the transaction upon their stipulation being met that a guarantor for Robert, namely Gwen, whom they are willing to accept, be made a party to the transaction.

Prepare in draft an appropriate instrument for registration.

QUESTION 3

Advise the purchaser who is concerned, after exchange of contract and before completion, in each of the following cases -

- (a) The vendor is selling subject to the existing tenancies which were described as monthly tenancies. In fact the vendor overlooked that one of the tenancies is for five years, with six months remaining unexpired, and he is threatening to forfeit the deposit unless the purchaser meets the completion date which is a month away.

- (b) The property being sold for \$1M is described as containing five and one-half acres. In fact it is five and one quarter acres. The vendor is now willing to accept \$0.8M. The purchaser insists on rescinding the contract.
- (c) The vendor, who is a life tenant, has submitted the title and the executed transfer on the completion date, but there is no indication that the trustees are aware of the sale.

QUESTION 4

Daniel proposes to develop his 5-acre residential land for the construction of a condominium/strata complex and has formed a company, known as Daniel Ltd., in order to facilitate the financing aspects of the venture. Accordingly, he has approached Money Ltd. for a loan of \$20M.

- (i) What enquiries and searches should be made on behalf of Money Ltd.?
- (ii) Prepare in draft the application by Daniel Ltd. for the registration of a condominium corporation.
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QUESTION 5

In 1951, Jerry Brooks bought a parcel of land known as "Paradise" measuring by estimation four acres, which he left vacant. In 1952, Simon, unknown to Jerry, began to occupy and cultivate Paradise. He lived there, together with his wife Mary and two children, until 1965 when he died intestate. Mary obtained letters of administration to his estate in 1966.

In 1962, Jerry had applied for and obtained a registered title to Paradise. Nevertheless, Mary and her two children have continued to occupy and cultivate Paradise, without the consent of Jerry, to the present time.

W Mary and the two children now consult you as to any rights they may have over Paradise and also as between themselves to the said land.

- (a) Advise them.
- (b) (i) Assuming that Paradise can be claimed, what documents should be prepared and/or obtained with a view to securely vesting title? In whom should title be vested?
- (ii) Draft ONE declaration.
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QUESTION 6

Devlop owns 20 acres of land which he intends to develop and sell as twenty building lots with the stipulation that the lots shall be used only for the construction of single family dwelling-houses and that the lots should not be subdivided.

- (i) Advise Devlop on the procedure involved in implementing his plan.
 - (ii) Prepare in draft an appropriate transfer/conveyance of one lot.
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QUESTION 7

In January 1994, Victor entered into a written agreement for the sale of his land with registered title to Paul. Pending the date of completion, Victor deposited the title with Quick Bank Ltd. to secure a short-term overdraft of \$500,000. In addition Victor gave the Bank a power of attorney enabling it to execute a legal mortgage to itself in the event of his default. Meanwhile the Bank lodged a caveat to protect its interest. In making his usual searches and enquiries, Paul discovered the caveat. He thereupon lodged a caveat himself. Victor, who is now insolvent, is in default with the Bank.

Advise Quick Bank Ltd. how it should proceed, indicating whether it matters if it knew, or ought to have known, of the agreement for sale with Paul.

QUESTION 8

Tom died in 1993, having by his will devised his 60-acre farm to his wife Lisa for life and thereafter to his son, Junior, aged 5 years, absolutely. He appointed B and C his executors.

The farm is bounded as set out and described in a plan marked and annexed to a deed dated May 1, 1970, and made between Vernon as vendor and Tom as purchaser.

- (a) How would you proceed to vest title in the beneficiaries, making any assumptions you like as to the current nature of the title?
 - (b) If your client, Cleve, is proposing to purchase the farm, with whom should he contract and with what special conditions, if any?
 - (c) What enquiries, searches and requisitions would you make on his behalf, and when?
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