

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, 1996

CONVEYANCING AND REGISTRATION OF TITLE.

(Friday, May 31, 1996)

Instructions to Students:

- (a) Time: 3 1/2 Hours
- (b) Answer FIVE questions only.
- (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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

NORMAN MANLEY LAW SCHOOL LIBRARY
COUNCIL OF LEGAL EDUCATION
MONA, KINGSTON, 7. JAMAICA

QUESTION 1

Wheeler Deal is 9 months in arrears with his mortgage payments to Expand Bank Limited. The arrears and costs to date is \$45m. The security for the mortgage is prime commercial property at 6 Commerce Avenue registered at Volume 1031 Folio 66. The building is presently occupied by Orville, the yearly tenant of Wheeler Deal.

The current Valuation Report states the market value as \$60m and forced sale value as \$50m. The premises were previously put up for sale on two occasions by Expand Bank Limited but were withdrawn when, on both occasions, the highest bid was \$39m.

The Managing Director of Expand Bank Limited thinks that the property would be an ideal location for the Bank's proposed branch and is minded to seize it and to pay over the sum of \$25m to Wheeler Deal who refuses to enter into any contract in this regard with the Bank.

The bank contacts you.

- (a) Advise how they should proceed.
 - (b) Would your answer be different if the title to the land was un-registered?
-

QUESTION 2

Truly Realspoil and her father Graham Realspoil owned Townhouse #3, 16 Red Road, St. Andrew, registered at Volume 1066 Folio 29 as joint tenants. On Truly's engagement to Reggy Lucky, Lucky's name was added as another joint tenant. Two weeks after the wedding Graham Realspoil died. His estate is very complex and Truly and Reggie now contact you with a view to regularising the title for their townhouse.

(a) Advise what steps are to be taken to vest title solely in the names of Truly and Reggie Lucky and outline the information required by you to draft the necessary documents.

(b) Draft the application for Notation of Marriage.

QUESTION 3

John Developer recently acquired approximately 1 acre of land registered at Volume 395 Folio 26 subject to the following restrictive covenant -

- "1. There shall be no subdivision of the said land.
2. The land shall be used for residential purposes only."

John is undecided whether to erect townhouses or a condominium complex on the land.

(a) Advise John of the considerations and procedure if he decides on townhouses.

(b) Outline the difference, if any, if he proceeds with a condominium complex.

QUESTION 4

James Hardy entered into an agreement for sale with Thomas Silly to purchase land, part of Bogue, St. Thomas and registered at Volume 45 Folio 30 for \$2m. A deposit of 15% of the purchase price was made and completion set for April 30, 1996. Time was made of the essence of the agreement.

Silly learns that Jeff Moneybanks has offered Hardy \$4m cash for the land and that Hardy proposes to rescind the contract with him and to sell to Moneybanks.

(a) Draft a caveat on behalf of Silly.

(b) On May 3, 1996, Silly having tendered a part of the balance of the purchase price, Hardy advised him that the contract is off, refused to accept the part-payment and refunded all other sums previously paid in full and proceeded to enter into an agreement

with Moneybanks. Silly refused to accept any refunds or to release the caveat.

Moneybanks has made full payment to Hardy's lawyers on the condition that the sum is not to be released until the Transfer is registered.

Hardy seeks your advice on -

- (i) whether Silly can maintain a case against him;
- (ii) what steps can be taken against the caveat.

Advise him.

QUESTION 5

Joe Kidd recently died leaving by Will, his house, 6 Nassau Drive, St. Mary and registered at Volume 457 Folio 87, to his sons Andrew and Jeffrey as tenants-in-common. In July 1994, when he fell ill, Joe gave to Jeffrey, all his important papers including the title to the house for safe keeping. Jeffrey then moved in to live with Joe at the house.

Jeffrey, the sole executor named in the Will, kept all important papers under lock and key in the top drawer of the desk in his study and he maintained sole control of the key.

On obtaining a grant of Probate but before any other action was taken, Jeffrey discovered that the Certificate of Title was missing and was unsure whether or not he had in fact put it in the safe in his office. However, a search of both his home and office proved futile.

- (a) Draft an application for a new title;

 - (b) Assuming that a new title has been issued, outline the alternative procedures to vest title in Jeffrey and Andrew.
-

QUESTION 6

James Green has retained you to act for him in the sale of his land, part of Georges Valley, St. Ann, registered at Volume 899 Folio 45 to Mr. Harry Ball for \$4.5m. Mr. Ball has the purchase money save and except \$1m which he intends to raise from the Home Building Society. Green's title is subject to an outstanding mortgage balance of \$600,000.

- (a) Outline the procedure to be followed from the moment Ball's attorney-at-law sends you the Agreement duly executed together with the initial payment of \$675,000 to disbursement of the mortgage proceeds.

b. Green owes Bank Limited a sum of \$600,000 for which two separate premises are the security. The mortgage is in arrears and the bank has agreed not to proceed against either premises on confirmation of the sale of the land part of Georges Valley, St. Ann, to Ball and on your undertaking to pay over to them the sum of \$600,000 on completion of the sale.

Draft the appropriate letter.

QUESTION 7

By his Will dated August 3, 1989, Joe Goody made the following devise -

"I give and devise my land approximately two acres part of Rhinestone Valley, in the parish of Clarendon, to my niece Gillian, for life remainder to her infant son Cecil, absolutely."

The Will appointed Jerry Goody, his brother, as Executor and Trustee. Joe Goody died on January 5, 1996. The land is in fact family lands which had passed to Joe on the death of his father in 1967.

Gillian proposes to sell the land to Mary Blue who is prepared to pay \$2.3m for same in exchange for a Deed of Conveyance. Gillian is quite anxious to sell as she intends to use the money to

buy a house in her name. Jerry objects to the sale and to the purpose for which Gillian intends to apply the proceeds of sale. He thinks that even if he agrees to the sale the proceeds ought to be invested on the Stock Exchange. He refuses to consent to the sale.

(a) Advise Gillian.

(b) Draft a specimen Deed of Conveyance.

QUESTION 8

What will an applicant have to prove and what steps must be taken to modify or discharge a restrictive covenant?
