

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, 2012

CONVEYANCING AND REGISTRATION OF TITLE

(FRIDAY, MAY 18, 2012)

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 ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Under a contract for sale of land, the purchaser's attorney-at-law has verbally requested of you, as an attorney-at-law for the vendor, an extension of time of two weeks to complete the sale. Your client/vendor has instructed you to grant the extension on condition that the purchaser pays an additional deposit of 10% to compensate for the inconvenience the delay is likely to cause him.

- (i) How would you respond to your client on these instructions? Give reasons.
 - (ii) Draft an appropriate reply to the purchaser's attorney-at-law granting the extension.
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QUESTION 2

By his will, probated on May 1, 2011, Tom, who is registered as the sole proprietor of the fee simple interest, devised his 10-acre farm, registered at Volume/Block 2 Folio/Parcel 3 of the Register Book of Titles/Land Register, to Betty for life and thereafter to Junior, who is aged three years, absolutely. The executors now consult you with a view to the vesting of the property and change of proprietorship.

- (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?
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QUESTION 3

Rob is the proprietor in fee simple of Lot B registered at Volume/Block 5 Folio/Parcel 1. On May 1, 1992, Rob mortgaged the title to secure a loan of \$1 million from Money Limited and the mortgage was duly endorsed. Subsequent to the mortgage, Rob contracted to sell Lot B to Pat, to the knowledge of Money Limited. However, Money Limited apparently allowed Rob to receive the full purchase price from Pat who was then let into possession, but no transfer was executed in Pat's favour. Rob has now fallen into arrears under the mortgage and Money Limited is proceeding to exercise its power of sale.

Pat consults you seeking your advice on how to pursue any legal rights he would have to establish that he is the proprietor of the fee simple interest in Lot B and how such interest can be registered on title. On your advice Pat has agreed to lodge a caveat/caution on title as a first step.

- (i) Outline to Pat the basis for your advice that he lodge a caveat/caution as a first step.
- (ii) What are the procedural steps that you would take on Pat's behalf to lodge the caveat/caution, including the required documents and the information required to complete them?
- (iii) Explain the duty of the Registrar of Titles/Lands and the ensuing procedure, if the caveat/caution having been entered, Money Limited then tenders a transfer for registration under its power of sale.

QUESTION 4

Celine and Sherrone are the registered proprietors of a parcel of land registered at Volume/Block 598 Folio/Parcel 23 of the Register Book of Titles/Land Register. The property is mortgaged to Cash Alone Bank Ltd. for \$50,000. Sherrone, who is resident in the United States of America, and Celine entered into a contract to sell the land to Joel for \$500,000 cash. Joel has appointed Harry Beade as his attorney-at-law. Cash Alone Bank has indicated that the Certificate of Title/Land Certificate was destroyed in a fire at its offices.

- (i) Outline in a letter to Celine and Sherrone the procedural steps you would be required to take in the circumstances, as the vendor's attorney-at-law, to complete the sale to Joel.

- (ii) Outline the procedural steps required to make an application to the Registrar of Titles/Lands for the issue of a new Certificate of Title/Land Certificate, stating the documents required and outlining their contents.

QUESTION 5

On December 16, 2011, Cynthia Crossroads contracted to purchase a house at 3 Rum Avenue, St. Thomas, and registered at Volume/Block 876 Folio/Parcel 91 of the Register Book of Titles/Land Register, from Sugar Wasteland for \$2,500,000, free from encumbrances and vacant on completion on March 31, 2012.

By letter dated February 16, 2012, Cynthia Crossroads' attorney-at-law has advised that the following discoveries have been made:-

- (i) A breach of restrictive covenant in that the house is positioned 11 feet from the rear boundary line instead of 12 feet;
- (ii) That at a meeting of the local authority on December 26, 2011, a resolution was passed to widen the sidewalk on Rum Avenue and this would necessitate the compulsory purchase of 2 feet of the frontage of all premises on Rum Avenue; and
- (iii) That a young lady, claiming to be a friend of Cynthia Crossroads, is occupying the premises, albeit rent-free.

Cynthia Crossroads is claiming rescission of the contract, the return of the initial payment inclusive of the deposit, and damages for breach of contract.

Sugar Wasteland has reason to believe that Cynthia Crossroads, who has now seen another house which she prefers, is anxious to resile from the contract.

- (a) Advise Sugar Wasteland generally in respect of each of the above discoveries in light of Cynthia Crossroads' claim for rescission.
- (b) Outline the procedural steps to be taken if the breach of the restriction is to be rectified.

QUESTION 6

By an agreement for sale dated January 15, 2012, James Browne agreed to sell premises known as 101 Neverland Drive to Mike Jay. The Agreement includes, *inter alia*, a completion date of May 15, 2012. Although not specifically mentioned in the agreement, the parties understood that James Browne planned to use the proceeds of sale to complete the purchase of another property. That transaction is scheduled for completion on or around the same date.

On May 1, 2012 Mike Jay, through his attorney-at-law, wrote to James Browne advising that negotiations with his bank for a mortgage had broken down and he would require an extension of one month to complete arrangements for a loan from another source.

James Browne is outraged by this turn of events since his ability to complete his purchase would be jeopardized. He says that, in any event, there was never any indication by Mike Jay that he would require a loan to assist with the purchase.

James Browne has instructed you to advise Mike Jay's attorney-at-law that no extension of time will be given and that failure to complete within the agreed time will result in his (James Browne) withdrawing from the agreement and forfeiting the deposit.

Draft an appropriate letter to your client, James Browne, in response to his instructions, advising him whether you can accept his instructions as given.

QUESTION 7

By mortgage dated November 3, 2003, Mount Zion Building Society loaned \$2.5 million to Johnnie Spender, a building contractor. Property located at 66 Westwood Road was used as

security for the mortgage. The property comprised 10 acres of land in the upscale Westwood residential neighbourhood and Johnnie had already received planning permission to erect two and three bedroom townhouses with amenities befitting the area. Thus far Johnnie has only succeeded in landscaping the property which was professionally and beautifully done.

Having fallen on hard times, Johnnie defaulted on his loan payments and the Building Society thereupon sought to exercise its power of sale.

Johnnie's instructions are that his only notification that the Building Society was selling the property was a newspaper advertisement which he happened to see and which read as follows:-

**“Vacant lot for sale pursuant to Powers of Sale contained in a Mortgage.
Property registered at Volume/Block 99 Folio/Parcel 10.
Public Auction to be held at the offices of Mount Zion Building Society,
159A Zion Street on Monday April 1, 2012.....”**

Johnnie tells you that he attended at the offices of the Building Society on the date stated in the advertisement and was told by one Mr. Rascal, the Building Society's Loans Officer, that the property was sold the day before for \$1.5 million. A recent valuation shows that the property has a market value of \$4 million.

Johnnie is most distressed and seeks your advice.

Advise Johnnie.

QUESTION 8

You have been requested by clients, who intend to become major lenders mainly for the acquisition of vacant land and residential houses, to advise them on the remedies available to the mortgage lender in the event of default by the borrower.

In your response kindly state the remedies available, the methods of enforcement and the safeguards to be employed.

END OF PAPER