

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 2005

CONVEYANCING AND REGISTRATION OF TITLE

(FRIDAY, AUGUST 5, 2005)

Instructions to Students

- (a) Time: 3 ½ 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

Billy Loser is six months in arrears of payments due to Finance Building Society on a mortgage loan. The security for the loan is his residence known as No.1 Upscale Heights.

The premises is comprised of a luxurious six bedroom house, tennis court, swimming pool and well manicured gardens on one acre of registered land.

Finance Building Society has written to Billy indicating that they intend to exercise their power of sale under the mortgage. Billy has requested some more time to pay off the arrears and to bring his account up to date. Billy has indicated that he was completing negotiations with a foreign consular office who are interested in leasing the property at a monthly rental that would far exceed the required monthly payments under the mortgage.

The Loans Manager is adamant, however, that the sale should proceed as soon as possible, since in his opinion Billy's latest request is only another of his many delaying tactics.

Billy who is desperate to hold on to his property seeks your advice on the following:

- (i) What are his rights and powers as a mortgagor?
- (ii) When can the mortgagee properly exercise his power of sale?

Advise Billy.

QUESTION 2

Danny by his Will appointed Sam and Joe as his executors and devised Lot B to Bianca. The property is registered at Volume/Block 10 Folio/Parcel 50 of the Register Book of Titles/Land Register.

- (i) Advise Sam and Joe on the procedural steps to be followed to pass lot B to Bianca and when the transfer should properly occur.
 - (ii) Draft an appropriate instrument of transfer of the property to Bianca.
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QUESTION 3

Richard is the proprietor of 10 acres of registered land. He wants to build 25 one- and two-bedroom apartments which he will offer for sale. The complex will have several amenities including a jogging trail, gym and swimming pool for use by the residents. Richard will also require a mortgage to assist with completing the project.

- (i) Advise Richard on the procedural steps to be taken to realise his idea.
 - (ii) Outline the contents of the documents to be submitted to the Office of the Registrar of Titles/Registrar of Lands.
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QUESTION 4

Theresa is the proprietor of two acres of registered land. She wants to build 10 studio apartments which she will offer for sale. She proposes to include in the complex a gym and tennis court.

Theresa will require financing by way of a mortgage to carry out the development.

Elsie who wishes to purchase one of the studios consults you. Advise Elsie on the following:

- (i) What preliminary enquiries, searches and requisitions would you deem appropriate on behalf of Elsie?
 - (ii) The matter of her taking a mortgage to assist with the purchase.
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QUESTION 5

At Eleanor's New Year's party in January 2005, David and Eleanor discussed the sale of Eleanor's 10 acre stud-farm located at Mount Riches.

On February 1, 2005, David took over the management of the farm and has since undertaken extensive renovation work to the stables.

David has just received a letter from Eleanor asking him to vacate the premises by the end of the month as she has received an offer to purchase the property which she says she cannot refuse.

David shows you a receipt dated January 31, 2005, signed by Eleanor acknowledging receipt of \$100,000 "...being part payment on the sale of the farm as agreed". He shows you three other receipts dated the 1st of February, March and April, 2005 respectively, signed by Eleanor each of which acknowledges receipt of \$50,000.00.

David is quite upset with himself for not having insisted on a written agreement for sale, instead of acting on the trust and friendship he shared with Eleanor for the past two decades. However he is insisting that having expended a large sum of money so far to renovate the stables that he will not give up the property easily.

- (i) What advice can you give David in respect of his arrangement with Eleanor?
 - (ii) What, if any, remedies would be available to David?
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QUESTION 6

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

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

- (b) the property being sold for \$1,500,000 is described as containing one and one half acres. A survey conducted showed that it is in fact one and one quarter acres. The purchaser is insisting that he wants to rescind the contract, although the vendor is willing to negotiate a reduction in the purchase price;
 - (c) there is a breach of the restrictive covenant not to build more than 6 feet from the road. The vendor is insisting that the purchaser had viewed the property before the agreement for sale was executed and that he is unwilling to take any steps required to rectify the breach or negotiate any compensation for the breach.
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QUESTION 7

John and his wife Jean are the joint proprietors of land which is the matrimonial home registered at Volume/Block 10 Folio/Parcel 5 of the Register Book of Titles/Land Register. John died recently and Jean now consults you with a view to having the records show that she is the sole proprietor. However, Jean cannot find the Duplicate Certificate of Title/Land Certificate.

- (i) Draft the necessary application to show that Jean is now the sole proprietor.
 - (ii) Advise Jean on the procedural steps to be taken to address the matter of the lost title.
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QUESTION 8

Terri is the sole proprietor of land which is registered. She has recently given birth to her first child Megan who is now six months old. Terri is putting her personal affairs in order and seeks your advice on the legal implications of having Megan's name placed on the title.

Advise Terri.
