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COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1992

CONVEYANCING AND REGISTRATION OF TITLES

(Monday, August 10, 1992)

Instructions to Students:

- a) Time: 3 1/2 Hours.
- b) Answer FIVE questions.
- c) In answering any question, a student 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.

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QUESTION 1

Investors Limited is the owner of two parcels of land which, under an open contract, it has agreed to sell to Raphael, the client of Messrs. Rick & Pick, a firm of legal practitioners with whom you are doing your In-Service Training. The title to one parcel of land is registered and the title to the other is unregistered. Messrs. Rick & Pick are busy practitioners and they have requested you to investigate title to the parcels of land.

What would you bear in mind and what would you do in order to investigate title to the parcels of land?

QUESTION 2

By deed of legal mortgage dated July 1, 1978, Ulric Smith conveyed to Anne John the fee simple estate in his property known as No. 21 Church Street in the town of Painter to secure a loan of \$150,000 with interest at 11% per annum. The property comprises 5,000 square-meters with a large building thereon and is bounded as set out and described in a plan marked "A" and annexed to a deed dated June 30, 1978 made between David Jones as Vendor and Ulric Smith as Purchaser. Ulric Smith has persistently defaulted in payment of both principal and interest and Anne John has decided to exercise her power of sale. Aaron Prince has agreed to purchase the property from Anne John for the sum of \$225,000.

Prepare a draft conveyance to Prince.

QUESTION 3

Real Developers Limited propose to develop their parcel of land by erecting a condominium under the appropriate legislation and have consulted you.

- (a) Advise as to the preliminary steps that should be taken.
 - (b) Prepare in draft form the application to register the condominium, bearing in mind that the land is mortgaged to Investments Limited to secure a loan of \$500,000.
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QUESTION 4 ✓

The land formerly comprised in Certificate of Title registered at Volume 10 Folio 5 of the Register Book of Titles was subdivided in 1960 by the proprietor, Sam Sharpe, for the purposes of a housing scheme. The individual certificates of title were issued subject, inter alia, to the following restrictions:

- "1. Not to erect on the land above-described, any building for use as a shop or as a school or for a church and no building on the said land shall be used for the purposes of any trade.
2. The residence to be erected on the said land shall cost not less than Two Hundred Thousand Dollars."

Dr. John Cutter who owns and resides on a lot in the subdivision believes that it would be of great benefit to himself and other residents if he could establish his surgery at his said residence and has consulted you.

- (a) Prepare in draft an application with a view to satisfying the wish of Dr. Cutter.
 - (b) Briefly state the considerations that the court will apply in relation to applications to discharge and/or modify restrictive covenants.
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QUESTION 5 ✓

- (a) Under what circumstances, if any, could the court hold a mortgagee negligent in the exercise of his power of sale?
 - (b) When does the mortgagee's power of sale arise?
 - (c) Outline the conditions and steps in respect of a foreclosure proceeding.
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QUESTION 6 ✓

Percy James contracted to purchase Lot B from Vernon Brown, the title being registered. On the completion date when the duplicate Certificate of Title and the Transfer were tendered for endorsement and registration, Percy James discovers that a caveat against all dealings has been lodged by Carlton. Carlton is apparently claiming that he has a contract to purchase Lot B.

- (a) State the alternative procedures that may be adopted with a view to having the caveat removed.
 - (b) State briefly the principles governing the priority of equitable interests in registered land.
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QUESTION 7

(a) Investments Limited wishes to lend \$5,000. to M on the security of M's title, but without the formalities of a legal mortgage. If this is done, how can Investments Limited protect its priority if:

- (i) the title is registered;
- (ii) the title is unregistered?

(b) In the circumstances, how, if at all, can Investments Limited secure for itself a power of sale in the event of M's default?

QUESTION 8

(a) R owns ten acres of land which he wishes to subdivide into ten one-acre lots for sale as residential lots.

What steps will R have to take in order to subdivide his land?

(b) R entered into a contract with P for the sale of one of the lots in the proposed subdivision. P has paid a deposit of \$1,000 and the balance of the purchase price amounting to \$10,000 is due in two month's time. Time was not made of the essence of the contract. To date, R has taken no steps to subdivide the land and to have a separate title issued to P, nor has P (your client) been put into possession of the land. P consults you at this stage as to his rights under the contract.

Advise P and draft an appropriate notice to R.
