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NORMAN MANLEY LAW SCHOOL
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, 1988

CONVEYANCING AND REGISTRATION OF TITLES

(Thursday, May 26, 1988)

Instructions to Students

- a) Time: 3½ hours
- b) Answer FIVE (5) 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.

QUESTION 1

Jim Young, aged 80 and blind, sees well into the future. He owns a four-bedroom house. He occupies one room and his only income is \$1,500 monthly from the rental of three of the rooms to Conrad.

Jim consults you and tells you that following a conversation with his son, Tom, he has been persuaded to convey/transfer the property solely to his son since the title would assist him as a businessman, but on the following conditions, viz:

- that he does not lose any income;
- that as a consideration and further income, Tom pays an annual sum of \$1,200 payable monthly at the rate of \$100 to him for life;
- that Tom allows him to continue to occupy the one room for life.

(i) Jim wishes to know what would be the extent of his interest in the circumstances, how his interest will be protected and how he may enforce his rights.

Advise Jim.

(ii) Prepare in draft form the transfer/conveyance.

QUESTION 2

You are acting for Percy who has agreed to purchase from Viola for \$240,000 freehold building land the title to which is unregistered. The contract for sale describes the property as follows:

"ALL THAT parcel of land situate at No. 33 Pleasantview in the parish of Portland containing 24,000 square metres more or less and bounded on the north and east by lands of Boston, on the south by the sea and on the west by a public road"

and contains (amongst others) the following clauses:

"2. The title, which has been accepted by the Purchaser, shall commence with a deed dated the 5th day of January, 1971, and made between Hilton Clarke of the one part and the Vendor of the other part.

3. The property is believed to be correctly described. Any error or misdescription shall not annul the sale nor shall any compensation be allowed therefor."

Before completion, you discover that the area of land is only 18,000 square metres, that the 1971 deed is a deed of gift and that the property is subject to a restrictive covenant contained in a deed dated June 26, 1947 made between Rodney Chambers of the one part and Clifford Lake of the other part prohibiting the erection of more than one building thereon.

Advise Percy.

QUESTION 3

(a) Joe Pater consults you for advice on the consequences, including any complications or otherwise, which may ensue from a proposed devise by will of his 100-acre farm to his infant son, Filius.

Advise Pater.

(b) After giving your advice, Pater instructs you to prepare a draft settlement by deed vesting the farm in X and Y, as trustees, upon trust for sale, for Filius until he attains his majority.

Draft a form of settlement.

QUESTION 4

You act for Vendrees who has contracted to sell his premises known as No. 10 Main Street, Bay Town, to Percy. Annexed to the premises are the following restrictive covenants:

- "1. Not to erect any building or structure on the said land nearer than twenty feet to any road fronting the land nor less than five feet from any other boundary of the said land, and
2. Not to erect any building of any kind on the said land to be used for any commercial purpose."

Percy has now complained to Vendrees that he has been informed by his mortgagee that the Surveyor's Report indicate that a small basic school is being operated on the premises and that the shed in which it is housed extends to within two feet of the rear boundary of the premises.

Vendrees now consults you with a view to the completion of the transaction and avoiding liability for breach of contract.

- (i) How would you proceed?
 - (ii) Prepare in draft form the documents to commence such proceedings as may be necessary.
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QUESTION 5

(a) D wishes to develop his land known as Lot B, by the construction of a condominium thereon, and consults you on the steps that should be taken to implement his scheme.

Advise D.

(b) In respect of the purchase of a condominium unit, what preliminary enquiries, searches and requisitions should be made? Would different considerations apply if the complex is now being constructed or if the complex has been in existence for some time?

QUESTION 6

V owns commercial premises known as Park Plaza and is contemplating its sale to P for \$1 million.

The premises comprise two dry goods retail shops, a barber shop and restaurant. The retail shops are leased and each has five years of unexpired term. The barber shop is let on a monthly tenancy. The restaurant is occupied and operated by V.

The parties have orally agreed to the following terms:

- (i) that P will be allowed some time to negotiate the purchase from T, of the adjoining land known as Lot B in order to facilitate the development of the Plaza. Only then will P be interested in Park Plaza;
- (ii) that the sale shall not be with vacant possession;
- (iii) that P will grant a lease of the restaurant to V for a term of ten years from completion of the sale;

- (iv) that V will accept 10% deposit and allow P a period of eight weeks from the signing of a contract in which to obtain a firm commitment for a mortgage for the balance of the purchase price.
- (a) Draft, on behalf of V, an appropriate agreement for sale.
- (b) What preliminary enquiries and searches do you consider necessary in the circumstances?

QUESTION 7

R is the registered proprietor of ten acres of land, the title being registered at Volume 10 Folio 100 of the Register Book of Titles. By an agreement in writing of January 10, 1978, R agreed to sell his land to P. P was then put into possession but has not lodged a caveat to protect his interest.

In January, 1980, R received a loan of \$5,000 from the XY Bank Ltd. by way of equitable mortgage by deposit of his registered title. Before granting the loan, the Manager of XY Bank Ltd. inspected the property but there was no evidence to suggest that any person other than R was in possession.

In February, 1980, XY Bank Ltd. lodged a caveat to protect its equitable mortgage. Later, the bank learnt of the agreement for sale between R and P and thereupon filed an action for a declaration that its equitable mortgage ranked in priority to P's equity.

- (i) Examine the claims of XY Bank Ltd. and P as to the priority of their respective interests.

(ii) Would it make any difference if the Manager of the bank had seen P cultivating the land when he visited it?

QUESTION 8

On the death intestate of her husband in 1980, Mrs. H became entitled as sole statutory beneficiary (her husband having left no surviving issue, parent, brother or sister and no issue of any brother or sister) in respect of ten acres of land with a dwelling house thereon registered at Volume 1 Folio 2 in the name of her husband. No steps have yet been taken to wind up the estate. Mrs. H has now brought to you a gentleman named P and you are shown a receipt which reads as follows:

"Received from P this 1st day of February, 1987, the sum of \$10,000 part payment for one acre of land owned by me free from encumbrances.

Signed: Mrs. H "

Mrs. H tells you that she has allowed P to cultivate the one acre which is part of her late husband's estate, at a rental of \$500 monthly pending completion of the sale. She also tells you that she believes that there is a small sum owing to XY Building Society on a mortgage of the premises by her late husband. Mrs. H wants you to deal with the entire matter for her.

Outline in chronological order the steps you would take towards completion of the proposed sale to P.
