

NORMAN MANLEY LAW SCHOOL  
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 1990

CONVEYANCING AND REGISTRATION OF TITLES

(Thursday, May 31, 1990)

Instructions to Students

- a) Time = 3½ 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.
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QUESTION 1

Caesar Frank died in 1939, having by his Will appointed Egbert his sole executor. He devised his 300-acre farm to his infant son, Sonny, aged 15 years and the residue of his estate to his widow, Winnifred. There is now no interest in keeping the farm and the accent is on the education of Sonny. Percival, a developer, has made what appears to be an excellent offer to purchase the farm. ✓✓✓

How would you proceed with a view to the sale to Percival, if:

- (a) the land is registered;
- (b) the land is unregistered?

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QUESTION 2

Percy brings to you a contract of sale from which you see that he is purchasing a condominium unit from Vernon and that Messrs. A B & Co., attorneys-at-law, have the carriage of sale. Vernon had bought the unit three years ago and owes a balance on his mortgage. Percy expects a loan from Ace Building Society towards the purchase, the date for completion being three months hence.

- (i) Draft any preliminary letters on behalf of your client Percy.
- (ii) Outline in proper order the procedural steps to completion and indicate what searches, enquiries and requisitions you would make.

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QUESTION 3

John is the registered proprietor in fee simple of Lots A and B registered at Volume 1 Folio 2 and Volume 5 Folio 10 respectively. Both Lots A and B are mortgaged to Investments Limited to secure a total indebtedness of \$500,000. The indebtedness in respect of both Lots having been substantially reduced, Investments Limited are willing to allow John to

sell Lot A to Charlton free from encumbrance, without impairing their lien on Lot B. The sale price will be \$300,000.

Draft a form of transfer to Charlton and any other document to facilitate the transfer.

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QUESTION 4

C owns a large estate which he has sub-divided into 30 one-acre lots. He has retained one of the lots on which he has constructed his home.

C wishes to impose restrictive covenants prohibiting the purchasers of the remaining 29 lots from using their lands for purposes other than constructing a single-family dwelling house on each lot.

(a) Draft a form of transfer which you will require each purchaser to execute so as to ensure that the restrictive covenants will be binding on all the purchasers not only in favour of C but mutually between them and which will also be binding on all persons who may ultimately own any of the 30 lots comprised in the sub-division.

(b) Assume that C has sold 20 of the lots under the above conditions.

C now wishes to further sub-divide the remaining lots into half-acre lots much to the annoyance of the purchasers who have objected.

State, briefly, whether you think C's application for a modification of the original covenants is likely to succeed.

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QUESTION 5

V contracted to sell his house to P, the title to which is registered, but V died before any further steps were taken. Probate having been granted his executor R, now consults you with a view to the completion of the transaction.

Draft the necessary documents for registration.

QUESTION 6 ✓

(a) In 1980, George contracted to purchase Lot B, the title to which is registered from Arthur, paid the purchase price and was let into possession. However, no formal transfer was executed and George has for some time been unable to discover the whereabouts of Arthur.

Advise George who is anxious to be registered as the proprietor of Lot B.

(b) Percival discovers, on presentation of his transfer for registration, that there is a caveat against all dealings in respect of the land in question.

Advise Percival.

QUESTION 7

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 to secure a loan of \$150,000 with interest at 15% per annum. The property comprises 1,500 square feet with a large building thereon and is bounded as set out and described in a Plan marked "A" and annexed to a deed 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, who resides in England, had by a power of attorney dated January 1, 1989, appointed Desmond Pole to exercise her power of sale under the mortgage. Aaron Prince has agreed to purchase the property from Desmond Pole, for \$250,000 and now consults you.

- (a) What preliminary enquiries, searches and requisitions would you consider necessary?
- (b) Draft the conveyance to Aaron Prince.

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QUESTION 8

After an exchange of contracts, the purchaser became aware for the first time that:

- (a) the roof of the house is termite infested and is on the verge of collapse,
  - (b) there is restrictive covenant to the effect that the building shall be used only as a single-family dwelling house. (The purchaser had hoped to convert it into flats for rental to tourists).
  - (c) there is a foot-path through the land which is being used by persons in the district in order to gain access to a nearby river;
  - (d) the set-back of the house from the road is in breach of local regulations, in terms of distance from the boundary line;
  - (e) there is a pending action in court by the vendor's neighbour against the vendor in respect of the location of the boundary line and which is likely to be resolved in favour of the neighbour.
- The purchaser seeks your advice with a view to rescinding the contract. Advise him on each aspect.
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