

NORMAN MANLEY LAW SCHOOL
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATION, 1991

CONVEYANCING AND REGISTRATION OF TITLES

(Tuesday, May 28, 1991)

Instructions To Students:

- a) Time: 3 1/2 hours.
- b) Answer FIVE questions only.
- a) 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

By deed of mortgage dated May 1, 1980, Albert Simms obtained a loan of \$300,000 with interest at 15% per annum from Jane Brown on the security of his property known as Lot C. The property is bounded as set out and described in a Plan marked "A" and annexed to a deed dated April 1, 1980, made between Vernon Jones as vendor and Albert Simms as purchaser. Simms is in default in respect of principal and interest on the loan. Jane Brown who now resides in England, has appointed Carl Power to sell Lot C, by power of attorney dated April 30, 1991.

Draft a conveyance to the purchaser, P.

QUESTION 2

Real Developers Limited propose to develop their parcel of land by erecting a condominium under the Registration (Strata Titles) Act 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 Strata Plan, bearing in mind that the land is mortgaged to Investments Limited to secure a loan of \$500,000.
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QUESTION 3

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 abovedescribed, 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 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.
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QUESTION 4

- (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 5

✓ 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 by Percy James and the Registrar of Titles 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 6

Valerie proposes to sell her commercial premises known as 10 Park Plaza to Percival for \$5 Million.

The premises comprise two retail shops, a beauty salon and a restaurant. The retail shops are leased to Tom and Tim respectively and have both 5 years of unexpired term remaining. The beauty salon is let on a monthly tenancy to Nancy. The restaurant is occupied and operated by the said Valerie.

Valerie and Percival have orally agreed to the following terms, inter alia:

- that Percival will keep the tenants;
- that Percival will allow Valerie to continue to occupy and operate the restaurant for about 3 years but leaving in place all furnishings and equipment;
- that Percival will need to obtain a mortgage loan after paying his deposit.

- (a) Prepare in draft an appropriate Agreement for Sale.
 - (b) What preliminary enquiries and searches do you consider are indicated in the circumstances?
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QUESTION 7

(a) Robert Jones owns 10 acres of land and wishes to subdivide it into one-acre lots for sale as residential lots.

What steps should Robert Jones take with a view to subdivide his land? Outline the procedure involved, generally.

(b) Robert Jones entered into a contract with Percy for the sale of one of the lots in the proposed subdivision in (a) above. Percy has paid a deposit of \$50,000 and the date for completion is six weeks away. To date, Robert Jones has taken no steps to subdivide the land.

Percy consults you at this stage and tells you that he now prefers to invest in another housing scheme in the circumstances. Draft an appropriate notice to Robert Jones.

QUESTION 8

P has contracted to purchase a condominium unit from V. The unit is mortgaged to Ace Building Society. P will be obtaining a mortgage from City Bank Limited.

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Outline in proper sequence, the steps towards closing the transaction showing the part played by undertakings.