

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 1993

CONVEYANCING AND REGISTRATION OF TITLES

(Thursday, May 20, 1993)

Instructions to Students:

- a) Time: 3 1/2 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

The following is an outline of a proposed Contract of Sale -

Vendor	-	Arc Limited
Purchaser	-	Mr. and Mrs. John Brown jointly
Property	-	Strata Lot No. 3
Purchase Price	-	\$2 Million
How Payable	-	Deposit 15%
Possession	-	Tenant required to quit
Taxes, Maintenance Charges, etc.	-	To be apportioned
Costs of Title	-	Components to be shared except for Transfer Tax
Special Conditions	-	Purchasers require a mortgage loan

For a fee of \$4,500 prepare a fair copy of the Contract with insertions or additions as may be appropriate.

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QUESTION 2

- (a) Summarize the ratio decidendi in Workers Trust and Merchant Bank Limited v Dojap Investments Limited (P.C. Appeal No. 41 of 1991) on the question whether a deposit in excess of 10% paid under a contract for the sale of land can be lawfully forfeited by the vendor in the event of a failure by the purchaser to complete on the due date.
- (b) Under a contract for sale of land, the purchaser's attorney-at-law has verbally requested of you, as attorney-at-law for the vendor, an extension of time of two weeks to complete the transaction.
- (i) How would you deal with the request? Give reasons.
- (ii) Draft an appropriate reply granting the extension.
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QUESTION 3

(a) The title of A and B, the joint proprietors in fee simple of a 3-bedroom house registered at Volume 1 Folio 2 of the Register Book of Titles, was being held by Alpha Building Society Limited as security for a loan. However, since the date of a felony at the offices of the Society, the title cannot be located.

Prepare in draft form all necessary documentation in the circumstances.

(b) A and B, tenants in common in fee simple, wish to convert to joint tenants. Draft the Transfer.

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QUESTION 4

By his will, probated on May 1, 1992, Tom devised his 10 acre farm, registered at Volume 2 Folio 3 of the Register Book of Titles, to Betty for life and thereafter to Junior, aged three years absolutely. The executors now consult you with a view to the vesting of the property and change of proprietorship.

- (i) Advise on the procedures that may be adopted.
  - (ii) Prepare in draft the necessary documentation on a selected procedure.
  - (iii) How should the title be endorsed?
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QUESTION 5

- (a) When does the power of sale under a mortgage become exercisable?
  - (b) Prepare in draft a notice of intention to exercise such power.
  - (c) Outline the requirements and procedure for an order of foreclosure.
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QUESTION 6

Your client, Richard Cole, is the proprietor of Lot 5, now known as 3 Queen Street, registered at Volume 10 Folio 2 of the Register Book of Titles, being part of lands comprised in a Plan of an old sub-division affected by the following restrictive covenants -

- "(1) Not to erect on the said land any building for use as a shop, school, or church.
- (2) The dwelling house to be erected on the said land shall be not less than 1500 square feet."

Your client wishes to use Lot 5 for the purpose of erecting offices.

- (i) Prepare in draft form the necessary application.
  - (ii) Outline the procedure on the application.
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QUESTION 7

R is the proprietor in fee simple of Lot B registered at Volume 5 Folio 1. On May 1, 1992, R mortgaged the title to secure a loan of \$1 million from Money Limited and the mortgage was duly endorsed. Subsequent to the mortgage, R contracted to sell Lot B to P, to the knowledge of Money Limited. However, Money Limited, apparently allowed R to receive the full purchase price from P who was then let into possession but no transfer was executed. R has now fallen into arrears under the mortgage and Money Limited is proceeding to exercise its power of sale and has filed a writ against P, under the Registration of Titles Act, for possession and mesne profits.

P consults you and you propose to counter-claim for an order that Money Limited deliver a discharge of its mortgage to P and execute such assurances to enable P to become the registered proprietor.

- (i) Prepare for lodging on behalf of P, a caveat and statutory declaration.
  - (ii) Explain the duty of the Registrar of Titles and the ensuing procedure, if, the caveat having been entered, Money Limited then tenders a transfer for registration under its power of sale.
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QUESTION 8

Home Developers Limited owns 10 acres of land, under a common law title, and wishes to develop the land by the construction of a condominium complex thereon.

- (i) Advise Home Developers Limited on the steps they should take.
  - (ii) Prepare in draft the necessary application for the registration of the complex as a corporation, after the preliminary steps have been taken.
  - (iii) What preliminary enquiries, searches and requisitions would you deem appropriate on behalf of a purchaser of a unit in such a new scheme?
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