



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF DECEMBER 2005

CODE AND NAME OF COURSE: LA22A (LAW2210) - REAL PROPERTY I

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer **THREE (3) QUESTIONS, AT LEAST ONE (1) from PART A and ONE from PART B.** Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

PART A

1. “We can, in fact, now describe the theory of tenure, despite the great part that it has played in the history of common law, as a conception of merely academic interest. It is of so little practical importance that a fee simple tenant in any Commonwealth Caribbean territory which has received the common law of real property can fairly claim to be as complete an owner of the land as a proprietor of land in St. Lucia or Guyana”.

Discuss.

2. “[Counsel] argued that a chattel house is a peculiar hybrid of real property and personal property and that it is treated as real property”.

Critically analyse this statement.

3. Answer **BOTH (a) AND (b).**

(a) Explain the methods by which a joint tenancy can be severed.

(b) Critically discuss the statement that:

“Unlike the common law, equity did not favour joint tenancy”.

PART B

4. Bombe has the fee simple title to "The Dreadful Estate" in the Island of Uwichill. In March 1999, Bombe entered into a written contract to sell "The Dreadful Estate" to Rouke. Soon after the execution of the contract for the sale of "The Dreadful Estate", Rouke entered into possession of "The Dreadful Estate" and proceeded to grow sugar cane, peas, and corn, to rear pigs and fowls, and to erect a red house overtowering the green crops in "The Dreadful Estate".

Rouke lived in the red house with his wife and four children, but did not register a caveat to protect his estate contract until June 1999. The Registered Land Act of Island of Uwichill provides:

"So long as a caution remains registered, no disposition which is inconsistent with it shall be registered except with the consent of the cautioner or by order of the court".

Meanwhile, in April 1999, Bombe approached Conny for a loan. Conny, having satisfied himself that no interest was registered against the title to "The Dreadful Estate" under the Island of Uwichill Registered Land Act, without more advanced \$200,000 to Bombe. The title deeds of "The Dreadful Estate" were deposited by Bombe with Conny. On April 30, Conny registered a caveat against Bombe's registered title. In May 1999, Bombe granted a legal lease of the "The Dreadful Estate" to Doke who, relying on the assurances of Bombe, that the land was free from encumbrances, paid a year's rent in advance to Bombe. In July 1999, Conny sold his interest in the mortgage to Elcid, the latter being fully aware of the interests of Rouke and Doke in "The Dreadful Estate".

Advise Elcid of his rights, if any, as against Rouke and Doke.

5. Answer **BOTH** (a) **AND** (b).
- (a) "There is no valid distinction between a 'fee tail' and a 'fee simple' estate. It is an attempted distinction between convertible terms".
- Discuss.
- (b) John is the life tenant of a family home, which he has allowed to deteriorate through disrepair, to such an extent that it has now become unsafe to use the kitchen during the rainy season. He desires to do the following:
- (i) to replace the ornamental oak shutters of the family home with glass louvres; and
 - (ii) to cut down two parallel rows of palm trees which line the driveway to the family home.

Robert, who has a fee simple remainder interest in the family home, takes strong exception to John's plan to cut the palm trees and to replace the oak shutters of the family home. Robert also complains bitterly about the deteriorating state of disrepair of the family home. He is contemplating instituting an action against John.

Advise Robert as to the remedies, if any, available to him.

6. In 2001, Bob granted a yearly tenancy of a parcel of land called Sunset Ridge to Allan. Bob represented to Allan that he (Bob) was the owner of Sunset Ridge, and that Sunset Ridge would be sold to him (Allan), whenever he (Bob) decided to sell it.

Allan took possession of Sunset Ridge and started to construct a block of apartments and a concrete two-storey house. The construction was completed in 2004, when Allan purchased Sunset Ridge from Bob. The true owner of Sunset Ridge, Charles, lives in close proximity to Sunset Ridge and was aware that Bob was claiming Sunset Ridge as his own. Charles has instituted proceedings to recover possession of Sunset Ridge.

Advise Allan.

END OF PAPER