

PCLL CONVERSION EXAMINATION JUNE 2015

Title of Paper : Hong Kong Land Law
Date : 25 June 2015
Time : 2:30 p.m. – 2:45 p.m. (Reading Time)
2:45 p.m. – 4:15 p.m.

Instructions

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a one and a half-hours examination.
5. This is **NOT** an open book examination. However, candidates are allowed to bring into the examination copies of the Conveyancing and Property Ordinance, the Land Registration Ordinance and the Limitation Ordinance. The Ordinances **MUST** not be annotated (ie No words may be written on the Ordinances) but they may be highlighted. No other materials are allowed. Students will be disqualified if unpermitted materials, including any draft papers or annotated ordinances, are found on their desks.
6. Reading time for this paper is 15 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 4 pages, including three questions. Candidates are only required to answer **TWO** questions out of three. A total of 100 marks may be awarded.
8. Each question is worth 50 marks.
9. The passing mark for this paper is 50 marks.

**DO NOT OPEN THIS QUESTION BOOK
UNTIL YOU ARE TOLD TO DO SO**

PCLL Conversion Examination June 2015

Hong Kong Land Law

Question 1 (50 marks)

(a) The deed of mutual covenant for Sea View Mansions in Kennedy Town provides, inter alia:

- (i) No owner may make structural alterations to his flat without the written consent of the Manager;
- (ii) No owner may keep dogs or other large pets on the premises;
- (iii) No owner may use the premises other than for residential purposes.

Philip is intending to purchase a small two-roomed flat in Sea View Mansions and comes to you, a solicitor, for advice on the following matters.

- (1) **He wishes to knock a hole in the external wall in which to place a window-type air-conditioner. He wishes to know whether he is entitled to do so irrespective of whether or not the manager consents. (15 marks)**
- (2) **He wishes to keep his dog Bozo in his flat and wishes to know whether he is entitled to do so. (10 marks)**
- (3) **Philip works for a private tuition school giving mathematics lessons. He wishes to know whether he is entitled to give mathematics lessons for his usual fee of \$1,500 per hour in the flat. He intends to do so four evenings per week and on Sunday afternoons. (10 marks)**

Advise him as to the advice he seeks. (total 35 marks)

(b) Computer Industries ('the company') has just purchased a floor in a commercial building in Wong Chuk Hang. 30 shares have been attached to the floor. The company seeks your advice as a solicitor on the following issues:

- (1) **Is your client entitled to subdivide its 30 shares so as to allocate 10 shares to each new unit to be assigned to each new co-owner? (5 marks)**
- (2) **Explain to your client how the sub-division is effected. What documents will be required? (5 marks)**
- (3) **Will the new co-owners of the new units be bound by the land covenants in the head deed of mutual covenant? (5 marks)**

Question 2 (50 marks)

(a) Simon is a male indigenous villager of a recognized village in the New Territories who wishes to build a small house for himself in the village. He does not, however, own any land in the village.

(1) Advise him (i) what he must do to secure land upon which to build a small house; and (ii) whether any restrictions in respect of the house to be constructed will be imposed. (10 marks)

(2) Simon has heard from the village head that he may apply for a certificate of exemption. Explain to him (i) the purpose of obtaining this certificate; and (ii) whether he has a right to be issued with a certificate of exemption. (7 marks)

(3) The small house has now been constructed in accordance with the statutory requirements and Simon wishes to sell the house to another indigenous villager. Explain (i) what documents of title he must produce by way of proving his good title; and (ii) explain the purpose of each document which must be produced to the purchaser. (7 marks)

(b) Patricia has agreed, by way of a binding sale and purchase agreement, to buy Venda's flat in North Point. The sale and purchase agreement was signed by Patricia and Venda on 3rd May 2015 and registered on 25th May 2015. A charging order nisi was registered against the flat on 3rd June 2015 in favour of the Bank of North China ('the Bank'). The parties have agreed in the sale and purchase agreement that the assignment to Patricia will be executed by Venda on or before 2nd August 2015, which is the agreed completion date.

(1) Advise Patricia whether she will be bound by the charging order if she completes the purchase. (10 marks)

(2) Advise Patricia as to what she must do with the outstanding balance of the purchase price which is due to be paid on or before 2nd August 2015. (10 marks)

(c) **Explain the major differences in (i) the manner of creation; and (ii) the effect between a Government lease and Conditions of Sale. (6 marks)**

Question 3 (50 marks)

3.1 Ann, her sister, Betty and her brother Calvin bought an apartment (the 'Apartment') for HK\$5 million. Ann and Betty each contributed HK\$2 million and Calvin contributed HK\$1 million. The Apartment was assigned to them as joint tenants in law and equity. Ann died in 2013 leaving all her property by will to her husband Alex and appointing him her sole personal representative.

(a) **What effect did Ann's death have on the ownership of the Apartment?** (8 marks)

(b) **If the Apartment had been assigned to Ann, Betty and Calvin as tenants in common in law in equal shares, what difference would this have made to your answer?** (6 marks)

3.2 **John and Mary live in a house in the New Territories which they own as joint tenants. After a terrible row they have separated and John has moved out. Advise John how he can sever the joint tenancy.** (10 marks)

3.3 Last week Lester and Tom agreed orally that Lester would lease his residential flat 2A Bauhinia Court to Tom for a term of two years starting on 1 September 2015 at a market rent of HK\$20,000 per calendar month.

(a) **Does the oral lease bind Lester and Tom?** (8 marks)

(b) **Would your answer differ if the two year term starts today and Tom moves in and pays the first month's rent?** (8 marks)

3.4 Victor holds land in the New Territories under Conditions of Sale dated 1 June 1970 for a term of 99 years less the last three days starting on 1 July 1898.

(a) **Can Victor convey a legal estate in his land?** (6 marks)

(b) **For how long can Victor hold his land?** (4 marks)

~ End of Examination Paper ~