



UTHM

Universiti Tun Hussein Onn Malaysia

UNIVERSITI TUN HUSSEIN ONN MALAYSIA

**FINAL EXAMINATION
SEMESTER I
SESSION 2019/2020**

COURSE NAME : REAL ESTATE LAW II
COURSE CODE : BPE 20603
PROGRAMME CODE : BPD
EXAMINATION DATE : DECEMBER 2019 / JANUARY 2020
DURATION : 3 HOURS
INSTRUCTION : ANSWER ALL QUESTIONS

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THIS QUESTION PAPER CONSISTS OF **THREE (3)** PAGES

- Q1** (a) In the case of *Teh Bee v. K. Marimuthu [1977] 2 MLJ 6* the Federal Court held that, “under the Torrens system, registration is everything” and citing Lord Buckmaster’s judgment in the case of *Creelman & Anor. V. Hudson Bay Insurance Company [1920] AC 194,197* “to allow an investigation as to the right of the person who holds the title would be wrong because to do so would defeat the purpose and object of registration”.

Analyze the curtain and mirror principles under the Torren System.

(15 marks)

- (b) Analyze the issue of whether indefeasibility under the National Land Code 1965 is immediate or deferred as per the judgment of Federal Court in the case of *Adorna Properties Sdn. Bhd. V. Boonsoom Boonyanit @ Sun Yok Eng [2001] 1 AMR 665*.

(15 marks)

- Q2** (a) Explain types of caveats which are provided under the National Land Code 1965 as follows:

- (i) Private caveats
- (ii) Trust caveats
- (iii) Lien-Holder’s caveat
- (iv) Registrar’s caveat

(20 marks)

- (b) Azmi a landowner has charged his 2-acre land and building to Kaya Bank and leased a part of it to Ahmad who is now earning money from tenancy contract with Mahmud. Azmi recently ran into financial difficulties and unable to service the loan payment to Kaya Bank. Therefore, he intended to sell his land to Along Sdn. Bhd. for a sum that he thinks can solve all his problems. Azmi is your client. He is asking you to complete the sale and transfer the land to purchaser.

Propose a solution to Azmi with regard to legal issues as follows:

- (i) The possibility for Azmi to transfer the land.
- (ii) The need to redeem the property charged to Kaya Bank.
- (iii) The need for obtaining the consent of other parties before the transfer takes place.
- (iv) The possible action taken by Kaya Bank if Azmi unable to pay the loan.

(20 marks)

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- Q3** (a) Datuk Abu intent to apply for an overdraft facility for his business working capital. As a security for the facility applied, Datuk Abu shows you a land title. Assume you are assigned by your bank to prepare a credit proposition.

Outline **FOUR (4)** arguments of real estate law knowledge for your examination of the land title provided by Datuk Abu.

(20 marks)

- (b) In the case of *S. Kulasingam and Anor. V. Commissioner of Land, Federal Territory and Ors [1979] 1 MLJ 180*, it was argued that Section 3 of the Land Acquisition (Amendment) Act 1991 was ultra vires to Article 8 (1) of the Federal Constitution.

Discuss the above argument.

(10 marks)

-END OF QUESTIONS -

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