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UNIVERSITI TUN HUSSEIN ONN MALAYSIA

**FINAL EXAMINATION
(ONLINE)
SEMESTER I
SESSION 2020/2021**

COURSE NAME : REAL ESTATE LAW II
COURSE CODE : BPE 20603
PROGRAMME CODE : BPD
EXAMINATION DATE : JANUARY / FEBRUARY 2021
DURATION : 3 HOURS
INSTRUCTION : ANSWER ALL QUESTIONS

THIS QUESTION PAPER CONSISTS OF THREE (3) PAGES

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- 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 in the case of *Frazer v. Walker* [1967] 1 AC 569 Lord Wilberforce held that “The expression [“indefeasibility of title and interests”]... is a convenient description of the immunity from attack by adverse claim to the land or interest in respect of which... a registered proprietor enjoys. This conception is central in the system of registration”.

Apply the curtain and mirror principles under the Torren System in light of the abovesaid judgments.

(20 marks)

- (b) Putar Putar Sdn Bhd (‘PP’) in 1st of January 2020 has been alienated by the State of Johor 10 acres of land in Kota Tinggi. One of the conditions for the alienation is that the land is to be used solely for storage and packaging of textiles products only. PP built a 10 unit of 10 storey warehouse cum manufacturing plant on the land. On 1st of June 2020, PP leased 50% of its warehouse and part of the open air car park to Asal Boleh Sdn. Bhd. (‘ABS’) for the use of ABS’s business. ABS used the premise to manufacture chemicals and fertilizers. Later on, PP received a notice from the Johor Bahru land office concerning a breach of condition of the use of the land and requiring PP to show cause why the land should not be forfeited.

Prepare a legal advice to PP with reference to the National Land Code 1965 and decided cases on issues below:

- (i) A proper procedure with regards to forfeiture. (10 marks)
- (ii) The validity of forfeiture since there is no condition on title prohibit the registered owner from leasing the land to any other person. (10 marks)
- (c) Explain types of caveats as follows:
- (i) Private caveats (6 marks)
- (ii) Trust caveats (6 marks)

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- Q2** (a) Mr. X intent to apply for an overdraft facility for his business working capital. As a security for the facility applied, Mr. X shows you a land title. Assume you are assigned by your bank to prepare a credit proposition.

Discuss the following aspects of the land title provided by Mr. X in the preparation of the credit proposition.

- (i) Lease for 99 years (6 marks)
- (ii) Malay Reserve Land (6 marks)
- (iii) Notice of 6A under Section 100 of National Land Code has been issued (6 marks)
- (iv) Restriction in interest “the land cannot be transferred or charged without the consent of the State Authority”. (6 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.
- Relate the above said case to the Federal Constitution and other provisions of law. (8 marks)
- (c) Discuss the effect of the agreement that is made with a phrase “subject to contract” in the land transaction. (8 marks)
- (d) Differentiate between Joint Management Body (JMB) and Management Corporation (MC). (8 marks)

-END OF QUESTIONS-