

PCLL CONVERSION EXAMINATION JANUARY 2010

Title of Paper : Hong Kong Land Law
Date : 7 January 2010
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 an one and a half-hours examination.
5. This is **NOT** an open book examination. However, candidates are allowed to bring into the examination a copy of the Conveyancing and Property Ordinance and the Land Registration Ordinance. The Ordinances may not be annotated but can be highlighted. No other materials are allowed.
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 January 2010

Hong Kong Land Law

Question 1 (50 marks)

1.1 Oswald owns house number 10, a house in the New Territories. Siu Ling lives next door in number 11.

Siu Ling has lived in house number 11, for 40 years with her husband Man Fai. Man Fai owned the house until his death in 2000. Siu Ling inherited house number 11 from her husband and she has continued to live there.

In 1995, the fence dividing houses numbers 10 and 11 was blown down by a typhoon. When the fence was rebuilt it was mistakenly positioned 30 centimetres inside Oswald's garden.

It is now January 2010. Oswald wants to sell his house number 10 and has just noticed that the fence is in the wrong position. He has written to Siu Ling demanding that the fence be taken down and rebuilt in the right place.

Advise Siu Ling whether or not Oswald is entitled to take back possession of the 30 centimetre strip. **(40 marks)**

AND

1.2 Bonny owns Flat 6A Bauhinia Court which she holds under Conditions of Sale dated 1 March 1983. Explain how Bonny can show an intended purchaser that she can sell a legal estate in the flat. **(10 marks)**

Question 2 (50 marks)

2.1 On 28 December 2009 Percy orally offered to buy Flat 8A Pine Court, 76 Bauhinia Road from Victor for HK\$6,500,000 with completion on 30 January 2010. Percy also stipulated that the purchase must include all Victor's furniture. Victor accepted Percy's oral offer.

On 30 December 2009 Percy's solicitor wrote to Victor as follows:

Dear Victor,

My client, Percy, has agreed to buy Flat 8A Pine Court, 76 Bauhinia Road from you for HK\$6,500,000 with completion on 30 January 2010. I enclose a cheque payable to you for the deposit of HK\$650,000. Please let me know the name of your solicitors.

Percy's solicitor signed the letter. Percy signed the cheque for the deposit. The letter and cheque were received by Victor on 3rd January 2010.

On 15th January 2010 Percy wrote to Victor saying that he has changed his mind and does not want to proceed with the sale.

Can Victor enforce the agreement against Percy? **(25 marks)**

2.2 Assume that Victor and Percy have signed an agreement for sale and purchase. Percy wants to assign the agreement to Alice. What are the correct formalities for the Assignment? **(5 marks)**

2.3 Mary has created two legal mortgages over Flat 6C Rose Gardens each to secure a loan of HK\$1 million. The first is in favour of Alpha Bank and the second in favour of Beta Bank. Which bank has priority in the following situations?

- (a) Alpha Bank's mortgage is dated 1 January 2009 and was registered in the Land Registry on 20 January 2009. Beta Bank's mortgage is dated 2 January 2009 and was registered in the Land Registry on 15 January 2009. **(7 marks)**
- (b) Alpha Bank's mortgage is dated 1 January 2009 and is not registered in the Land Registry. Beta Bank's mortgage is dated 2 January 2009 and was registered in the Land Registry on 15 January 2009. **(7 marks)**
- (c) Alpha Bank's mortgage is dated 1 January 2009 and is not yet registered in the Land Registry. Beta Bank's mortgage is dated 2 January 2009 and is not yet registered in the Land Registry. **(6 marks)**

Question 3 (50 marks)

Xerxes Ltd purchased a plot of land in North Point and constructed on the plot a multi-storey building. The building has 22 floors and is divided into 2,220 equal undivided shares. 100 shares have been allocated to each floor in the deed of mutual covenant and 20 to the common parts. No shares have been allocated to the roof. The area in North Point on which the building stands was initially zoned as commercial use, but has recently been re-zoned for residential use. The third floor of the building is owned by Plastic Flowers Manufacturing Association ('Flowers') and Flowers wishes to convert the floor into four residential flats. New common parts will need to be created.

William owns the top floor to which 100 shares have been allocated. He also has the exclusive right to use and occupy the roof.

Answer the following questions:

3.1 Is Flowers permitted to subdivide its 100 shares allocated to the third floor? Explain how this must be done. **(10 marks)**

3.2 Explain briefly to Flowers the legal mechanism for converting the floor into four residential flats. **(10 marks)**

3.3 William wishes to assign the exclusive use and occupation of the roof to Advertising Signs Ltd. Explain how this can be done. **(10 marks)**

3.4 A covenant in the deed of mutual covenant provides that 'No owner may keep dogs on the premises'. The tenth floor has already been converted into four flats and Patrick, the owner of one of the flats, seeks your advice as to whether he is bound by the restrictive covenant. He points out that he was not a party to the deed of mutual covenant. Advise him. **(20 marks)**

~ End of Examination Paper ~