

PCLL CONVERSION EXAMINATION JANUARY 2024

Title of Paper : Hong Kong Land Law
Date : 3 January 2024
Time : 1:30 p.m. – 1:45 p.m. (Reading Time)
1:45 p.m. – 3:15 p.m.

Instructions

1. This is an open book examination.
2. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name anywhere in the answer book.
3. Write your answers only in the answer books provided. Start each answer on a separate page of the answer book.
4. This is a one and a half-hour examination. In addition, there is 15 minutes' reading time. Do **NOT** begin writing in the answer book until you are instructed to do so.
5. This paper consists of 4 pages. Candidates are required to attempt any **TWO** out of three questions. Where a question is in two or more parts, all parts must be answered.
6. Candidates must give reasons for all their answers.
7. The total worth of this paper is 100 marks. Each question carries 50 marks.
8. Candidates must score at least 50 out of 100 marks to pass this paper.

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

PCLL Conversion Examination January 2024
Hong Kong Land Law

Question 1 (50 marks)

Owen owns two adjacent flats at Peace Court (“the Building”). He purchased both flats from the same previous owner by virtue of an Assignment dated 8th April 2023 which provided, amongst other things, that each of the flats was sold subject to and with the benefit of the Government Lease (“Government Lease”) relating to the land lot (“the lot”) upon which the Building was erected and the Deed of Mutual Covenants (“DMC”) relating to the Building.

The DMC was dated 4th May 2020 and the parties thereto were Peace Company Limited (as the developer), Lily Wong (as the purchaser of the first flat of the Building that had been sold) and Smiley Management Limited (as the Building Manager). The terms of the DMC include the following:

- (i) The Building Manager is authorised to manage the Building and enforce the provisions of the DMC.
- (ii) Each owner shall use the flat of which he has the exclusive use, occupation and enjoyment for residential purposes only and shall not conduct any trade or business or profession or calling whatsoever therein.
- (iii) No owner shall create any noise which may be a nuisance or annoyance to the other occupiers of the Building.

An Owners’ Corporation in respect of the Building has been properly formed under the Building Management Ordinance (Cap 344).

The Government Lease contains, amongst other things, the following covenants:

- (1) The lot and any building or buildings thereon erected or to be erected thereon shall be used for private residential purposes only.
- (2) Any conversion or alteration to the building at present standing on the lot shall comply with all laws of Hong Kong.

With reference to relevant provisions of the DMC, the Government Lease and the Building Management Ordinance (Cap 344) and case authorities, advise Owen of any consequence and/or liability that may result from his implementation of the following plans:

- (a) to use a part of one flat as a “classroom” for giving paid dog-training sessions; and
(25 marks)
- (b) to remove the partition wall between the two flats to create more space.
(25 marks)

If further information is required to answer this question, state what it is and the reason(s) why such information is needed.

Question 2 (50 marks)

Jack and Jill, his wife, who were born in June and July 1955 respectively and got married to each other in 1981, went to view a property (“the property”) in 1983 and wanted to buy it. The following events then took place:

- (a) Jack and Jill contributed towards the purchase price in equal shares and executed an Assignment on 1st November 1983 jointly as “purchasers” but there was no mention in the said Assignment of the manner in which they were to co-own the property. **(8 marks)**
- (b) Jack made a will on 1st April 2010 appointing Betty, his sister, to be the sole executrix and beneficiary of his estate. Jill made a will also on 1st April 2010 appointing Ben, her brother, to be the sole executor and beneficiary of her estate. **(7 marks)**
- (c) Jack ran into debts because of his gambling habit and one of his creditors registered a charging order *nisi* against the property on 6th October 2010, which was made absolute on 2nd February 2011. Both charging orders were discharged on 1st December 2011. **(15 marks)**
- (d) On 1st May 2023, Jack and Jill entered into a written tenancy agreement with Trevor to (i) rent the property to Trevor for a term of two years at a monthly rent of HK\$22,000.00; and (ii) give Trevor an option to renew the term of tenancy for one year upon expiry of the existing term. **(12 marks)**
- (e) On 30th June 2023, Jack and Jill both died in a tragic plane crash. The order of their deaths is unknown. **(8 marks)**

Peter is interested in buying the property so that he can live near his office.

With reference to relevant statutory provisions and case authorities, explain the impact, if any, of the abovementioned events on the following:

- (i) the chain of title to the property; and
- (ii) Peter’s ability to purchase the property with vacant possession.

If further information is required to answer this question, state what it is and the reason(s) why such information is needed.

Question 3 (50 marks)

- (a) Assume that you are an LLB student and that Alex, who is 22 years old, is your friend. Alex has just sent you the following email:

“Hi! My parents are selling Mum’s flat to someone called Philip. His solicitor has just asked for written consent from me and my Dad to the sale. Philip knew about my existence because he saw my bedroom when Dad was showing him round Mum’s flat as a prospective purchaser.

As you know, I have been away from Hong Kong since September 2023 on exchange studies and will not be back in Hong Kong until July 2024. It is a real nuisance for my parents to have to send the so-called “consent letter” by courier over to me in The Netherlands and then back to Hong Kong after I have signed it.

My Mum bought the flat in her sole name. What is Philip’s solicitor worried about? Would you have done the same thing if you were Philip’s lawyer?”

Answer, with reference to relevant statutory provisions and case authorities, Alex’s email. There is no need to draft any letter or email to answer this question.

(35 marks)

- (b) The flat of Alex’s mother is located in Kowloon and is held from the Government of the Hong Kong SAR under an Agreement and Conditions of Sale No 7014 (“the Conditions of Sale”) dated 22nd January 1970 in respect of New Kowloon Inland Lot No 4453 for a term of 99 years commencing from 1st July 1898 less the last 3 days.

Answer the following questions:

- (i) What interest, legal or equitable, is held from the Government of the Hong Kong SAR under the Conditions of Sale? If you need further information to answer this question, state what it is and the reason(s) why it is needed.
- (ii) What are the respective dates of commencement and termination of the interest held under the Conditions of Sale? Why?

(10 marks)

(5 marks)

~ End of Examination Paper ~