

PCLL CONVERSION EXAMINATION JUNE 2024

Title of Paper : Hong Kong Land Law
Date : 17 June 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 June 2024
Hong Kong Land Law

Question 1 (50 marks)

Linda owns a flat (“the flat”) on 8th Floor of Joyful Building (“the Building”), which was built in 2008. She bought the flat from its previous owner by virtue of an Assignment dated 2nd March 2018 which provided, amongst other things, that the flat was sold subject to and with the benefit of the Government Lease (“Government Lease”) and the Deed of Mutual Covenant (“DMC”) relating to the Building.

The DMC was dated 1st April 2008 and the parties thereto were Joy Co. Ltd. (as the developer), Kito Lee (as the purchaser of the first flat of the Building which was sold) and Wise Management Limited (as the Building Manager). The terms of the DMC include the following:

- (i) The Building Manager is empowered 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 private residential purposes only and no trade or business or profession or calling whatsoever shall be conducted therein.
- (iii) No noise which may be a nuisance or annoyance shall be allowed to be created by any owner or other occupiers of the Building.
- (iv) All management and other charges relating to the Building shall be paid by all owners in proportion to their respective undivided shares of and in the Building and the lot upon which the Building was erected.

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

On 1st December 2023, Linda rented out the flat to Tom for two years commencing from the same date under a written tenancy agreement which provides, amongst other things, for Tom to pay the management charges in respect of the flat. Explain the remedies, if any, that the Building Manager can seek against Linda and/or Tom upon occurrence of the following events:

- (a) The management charges in respect of the flat have not been paid for the past three months. **(20 marks)**
- (b) Complaints have been received from the other residents about loud noises emanating from the flat when Tom gives his occasional paid singing classes. **(10 marks)**
- (c) Tom often discards used card board boxes on the common staircases, thus making it very difficult for the other residents and the cleaners of the Building to go up and down the stairs. **(20 marks)**

Question 2 (50 marks)

Ben was looking for a flat to buy. In response to an online advertisement, he went to view Sally's flat ("the flat"). According to the land search that he obtained from the Land Registry, the flat was bought, free of mortgage, in Sally's sole name. When he went to view the flat, he met Sally and Martha, her mother. Martha told him that she often commutes between Hong Kong, where she stays with Sally in the flat, and Macau, where she stays with Sam, her son, who lives there.

Ben liked what he saw at the flat and reached an oral agreement with Sally to purchase the flat for HK\$10 million with completion set for 30th December 2024.

After Ben had paid her a cheque for the preliminary deposit of HK\$500,000, Sally told him that she was accompanying her mother to Macau to visit Sam and would sign the Agreement for Sale and Purchase ("the Agreement") upon her return to Hong Kong. As there was nothing of value in the flat, Sally acceded to Ben's request to lend him the keys so that he could visit the flat, whilst she was away, with an interior designer to discuss the decoration work to be done after completion of his purchase.

Answer the following questions:

- (a) What are Ben's remedies, if any, against Sally if she changes her mind upon her return to Hong Kong and refuses to sign the Agreement or sell him the flat? **(20 marks)**
- (b) Assume for the purposes of this Question 2(b) only that the Agreement has already been signed by Ben and Sally, who are both keen to complete the matter. What enquiries, if any, should Ben's solicitor make in light of Ben's knowledge of Martha's presence at the flat? Why? **(30 marks)**

Question 3 (50 marks)

- (a) In 1970, John started growing vegetables on a vacant field (“the field”) next to his house in the New Territories and soon built a fence round the field to guard it against trespassers and stray dogs. The field is held from the Government of the Hong Kong SAR under a Block Government Lease dated 4th August 1902 for a term of 75 years from 1st July 1898 with a right of renewal for a further term of 24 years less the last 3 days.

Amy, who normally resides in Norway, acquired the field in 1968 by virtue of an Assignment (which was, amongst other things, a deed) and it was subsequently registered at the Land Registry. Amy returned to Hong Kong for a holiday in 1974 to inspect the field. She saw John during that visit and told him that as she had no immediate use of the field, she would be happy to grant him a lease thereof. John told her that he would think about it but he has never contacted her since.

John had a stroke in March, 2016 and has been house-bound ever since. In April, 2016, Ken started using the field to grow vegetables and retained the same fence built by John to keep out trespassers and stray dogs.

Emma has offered a high price to buy the field from Amy on the condition that vacant possession will be delivered at completion. Evaluate Amy’s ability to accept Emma’s offer in light of the duration and nature of John’s and Ken’s use of the field.

(40 marks)

- (b) Assume for the purposes of this Question 3(b) only that Amy remains throughout as the legal owner of the field and that John and Ken have never occupied it.

By virtue of a written tenancy agreement, Amy rented to Ken the field for a term of three years from 1st June 2024, together with an option for him to renew the tenancy for another two years after expiry of the present term.

If Emma offers to buy the field from Amy with completion set for 1st December 2024, will Amy be able to deliver vacant possession of the field to Emma at completion? If you require further information to answer this question, state what it is and the reason(s) why such information is required.

(10 marks)

~ End of Examination Paper ~