

EXAMINATION OF ARTICLED CLERKS

PAPER III

CONVEYANCING

Friday, 17th May, 2013

TIME : 3 HOURS (1.00 P.M. TO 4.00 P.M.)

(Total Marks – 100)

- Notes.*— (1) Answer should be legible and precise.
 (2) Read the entire question carefully to reply.
 (3) Don't repeat the question. Figures right hand side the questions indicate the marks for corresponding question.
 (4) Quote statute and sections in support of your answer.
 (5) If you reply on a case law/authority, cite it fully – not just the counterparties or year.

1. Draft the following :—

Marks

25

- (a) Substituted Power of Attorney.
 (b) Mutual Will.
 (c) Covenants to be given by Trustees under the Conveyance for sale of immoveable property.
 (d) Memorandum recording Equitable Mortgage.
 (e) XYZ was the owner of two plots A and B touching each other. Vide registered Indenture of Conveyance dated 17th April 2013, XYZ sold Plot B to ABC. In the said Conveyance the following restrictive covenants were agreed between the parties for plot A :—
- (i) The height of structures to be built on plot A is to be restricted to 55 ft.
 (ii) The Owner of plot A will not consume FSI of more than 15000 sq. ft. on plot A, and
 (iii) Not to build or construct anything upon the remaining vacant portion of plot A. Thereafter XYZ negotiated with ABC to get the above negative covenants released from plot A. ABC has agreed to release the negative covenants on plot A. XYZ has come to you for advice. Kindly draft the appropriate document for XYZ for release of the above negative covenants on Plot A.

2. Explain the following with examples (any **four**) :—

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- (a) Negative Covenant running with the land.
 (b) Execution of Unprivileged will
 (c) Legacy does not lapse if one of two joint legatees dies before the testator.
 (d) In what cases legacy lapses?
 (e) Difference between joint tenancy and tenancy in common

3. Answer the following :— 15
- (a) A is unwell and is desirous of selling his immoveable property to Y. However A cannot attend the execution and registration of conveyance and requested his trusted Chartered Accountant to complete the transaction and has agreed to give a registered general power of attorney (GPA) in favour his Chartered Accountant. Kindly advise A with regard to the stamp duty implication on GPA citing appropriate case law and notification.
- (b) Time for presenting the following document for registration:
- * Will
 - * Decree
 - * Agreement for re-conveyance of property.
 - * Re-registration of document.
 - * Document executed by several persons at different times.
- (c) Adjudication and Impounding of Documents under the Bombay Stamp Act, 1958.
4. Discuss the following with relevant case law: 10
- (a) Sale of Terrace of registered society whether permissible ?
- (b) Restriction of Membership to Co-operative Housing society to members of one community alone.
5. Give your valuable opinion to the legal heirs of Pankaj and Pranab : 10
- Mr. Bhaskar was the owner of property situated in Maharashtra. He had 6 children (2 sons and 4 daughters) and when he passed away he left behind four married daughters, his two sons and his widow. By his Will Late Bhaskar bequeathed his property at Maharashtra to his two sons Pankaj and Pranab in equal share. Pankaj had four children (2 sons and 2 daughters). Pankaj died bequeathing his property under his Will (probate pending) to his two sons Ravi and Raju. Pranab had three children (1 son Rahul and 2 daughters Bindu and Ameer). Pranab died intestate. Pranab's daughter Bindu died leaving behind one son, Prem. Pranab's another daughter Ameer is unmarried. Till date the property stands in the name of Pankaj and Pranab.
6. Please attempt the following (any **four**) :— 20
- (a) Covenant in an English mortgage under which Mortgagee is entitled to mortgaged property without intervention of court.
- (b) Reversionary right.
- (c) Feeding the grant by Estoppel.
- (d) Doctrine of Part Performance.
- (e) Time is the essence of contract.
- (f) Actionable Claim.