

EXAMINATION OF ARTICLED CLERKS

Paper III

CONVEYANCING

Friday, 30th October 2015

Time : 3 Hours (1-00 p.m. to 4-00 p.m.)

(Total Marks—100)

- Notes.*— (1) Please read the entire question carefully to reply.
 (2) Please do not reproduce the question.
 (3) Answer shall be evaluated for analytical approach, reasoning and clarity of thought and not only for its accuracy and answers should be to the point.
 (4) If any question seeks your advice or opinion, please correctly state the reasons for your advice/opinion although the reason may not be specifically sought.
 (5) Quote sections and statute in support of your answer whether specifically mentioned in the question or not.
 (6) Quote case law/authority (if any) in support of your answer.
 (7) Figures in bracket alongside the questions indicate the marks for the corresponding question.
 (8) Please answer in order of the sub-questions.

Marks

1. (a) Dr. Zin had availed of a loan from XYZ Bank. He had deposited the original title deeds with the said Bank as security and created an equitable mortgage on his property. Dr. Zin then decided to close his loan and avail of another loan from ABC Bank. As market practice, ABC bank had disbursed the loan to Dr. Zin before the receipt of the original documents from the XYZ Bank. 16

The original title documents dispatched by XYZ Bank to Dr. Zin were lost in transit by the courier company.

- (i) Now Dr. Zin has approached you for your advice. What advice would you give him with regard to his loan, loss of title documents, his title to the property etc.
 (ii) If you were the common solicitor for Dr. Zin and ABC Bank, what advice would you give the said Bank, if the Bank approaches you for advice.
 (iii) If you were a solicitor for both, ABC Bank and XYZ Bank, what advice would you give XYZ Bank.
 (iv) And generally.

- (b) Please draft— 6

Notice to XYZ Bank on behalf of Dr. Zin.

OR

Public notice for the loss of the documents in the above transaction.

2. (a) Your client wishes to execute a gift of his residential property to his grandson. Please advise him with regard to—
- (i) payment of the stamp duty thereon and the registration of the same. 3

- | | Marks |
|---|--------------|
| (ii) if instead of his residential flat he proposed to gift his office to his grandson would your advice still be the same? And if not then why not ? | 4 |
| (iii) Would your advice be any different if your client wished to execute a gift of his residential property to his father and if not why not ? | 4 |
| (iv) Would your advice be any different if your client wishes to execute a gift of his residential property to her daughter and/or her grand-daughter. | 2 |
| (b) Kindly draft a deed of gift by your client of his residential property to his grandson. | 6 |
| 3. (a) Your client, a Hindu lady approached you and you had prepared a Will for her in the year 2006 whereunder she had given her estate equally to her 2 daughters, R. & S. You were an executor under the Will. Subsequently in the year 2009, your client had prepared another Will through her Chartered Accountant, of which neither you were aware nor were you an executor. Under the second Will, your client had bequeathed her estate 35:65 to R & S respectively. In the year, 2011 your client once again approached you and instructed you to prepare the First Codicil to her Will dated 2006, without mentioning to you the Will of 2009 and under the First Codicil she had once again bequeathed her estate equally to her daughter, R and T, the son of her predeceased daughter, S (the daughter, S since having expired). Your client expired in 2014 without executing any further Will.
Your client's daughter, R, has approached you to advise her on — | |
| (i) The validity of the 2 Wills and the Codicil. | 3 |
| (ii) Her rights under the 2 Wills and Codicil, especially since her nephew, T is propounding the second Will. | 3 |
| (iii) Legal advice as to the course of action that your client's daughter, R should take to claim her bequest. | 4 |
| (b) Please draft a First Codicil to the First Will by your client. | 4 |
| 4. Your client, a developer, has approached you, seeking your advice on whether he should form a society or a condominium, upon completion of construction of the property. You are requested to advise him thereon with particular reference to the salient features and differences between the society and condominium and for any additional options (if any) under MOFA and his rights and liabilities under MOFA with regards to non formation of any such organisation. | 10 |
| 5. (a) Your client has identified a flat (5000 sq. feet carpet area) for purchase in a building. The flat is being offered in 2 parts. 2000 sq. feet carpet area is being offered as a permanent alternate accommodation in lieu of the existing tenancy of X Pvt. Ltd. In addition thereto your client is required to acquire an additional 3000 sq. feet carpet area adjacent to the said flat to make an aggregate of 5000 sq. feet carpet area. She is being asked to make payment of 100% of the consideration upfront. As a modus operandi she is being asked to take over the company X Pvt. Ltd. She is seeking your advice on the following :— | 10 |
| (i) Whether this arrangement is one under MOFA ? | 2 |
| (ii) Whether she should make payment of 100% consideration upfront ? | 2 |

EXAMINATION OF ARTICLED CLERKS

	Marks
(iii) Is it prudent for her to acquire the company X Pvt. Ltd. ?	2
(iv) What precautions would you advise her in respect of the above arrangement ?	4
(v) What would you advise her on the stamp duty and registration the above arrangement ?	2
(b) How would you protect the interest of your client in respect of the above arrangement ?	4
(c) Draft the requisitions that you would raise on the above.	4
6. Your search clerk has given you a search report, which shows 2 entries of mortgage, (one before and one after the date of your client's registered document), a BMC undertaking and a registered notice of lis pendens. Please explain the search report to your client with specific reference to the Notice Lis pendens.	7
7. Discuss any <i>two</i> briefly :—	8
(a) Void bequests.	
(b) Rule against perpetuity.	
(c) concept of transfer under transfer of property Act.	