JUNE 2013 EXAMINATION

DATE: 7 JUNE 2013

TIME: 09H00 – 11H00 TOTAL: 100 MARKS

DURATION: 2 HOURS PASS MARK: 40%

(YG-91)

PROPERTY LAW AND CONVEYANCING

THIS EXAMINATION PAPER CONSISTS OF 3 SECTIONS:

SECTION A: CONSISTS OF:
(i) 10 MULTIPLE-CHOICE QUESTIONS (20 MARKS)
(ii) 5 TRUE OR FALSE QUESTIONS (10 MARKS)
(iii) 5 MATCHING-STATEMENT QUESTIONS (5 MARKS)

ANSWER ALL THE QUESTIONS

SECTION B: CONSISTS OF 11 QUESTIONS

ANSWER ALL THE QUESTIONS (45 MARKS)

SECTION C: CONSISTS OF 2 PRACTICAL APPLICATION QUESTIONS

ANSWER BOTH QUESTIONS (20 MARKS)

INSTRUCTIONS:

1. Read the following instructions carefully before answering the paper, as failure to act upon them will result in a loss of marks.
2. Write your answers in your answer book, which is provided in the exam.
3. Ensure that your name and student number are clearly indicated on your answer book.
4. Write your answers in either blue or black ink in your answer book.
5. Read each question very carefully before you answer it and number your answers exactly as the questions are numbered.
6. Begin with the question for which you think you will get the best marks.
7. Note the mark allocations for each question – give enough facts to earn the marks allocated. Don’t waste time by giving more information than required.
8. You are welcome to use diagrams to illustrate your answers.
9. Please write neatly – we cannot mark illegible handwriting.
10. Any student caught cheating will have his or her examination paper and notes confiscated. The College will take disciplinary measures to protect the integrity of these examinations.
11. If there is something wrong with or missing from your exam paper or your answer book, please inform your invigilator immediately. If you do not inform your invigilator about a problem, the College will not be able to rectify it afterwards, and your marks cannot be adjusted to allow for the problem.
12. This paper may be removed from the examination hall after the examination has taken place.

NOTE: FOR ADDITIONAL INSTRUCTIONS PLEASE TURN TO PAGE 2.
ADDITIONAL INSTRUCTIONS

1. All references to sections and Regulations are, unless indicated, references to the Deed Registries Act 47 of 1937, as amended, and Regulations thereto.
(i) **MULTIPLE-CHOICE QUESTIONS**

Choose the correct option for each of the following. Write only the question number and your chosen answer. For instance, if you think that the correct answer for number 1 is (a), then write it as 1. (a).

1. The Registrar of Deeds will:
   (a) examine all submitted deeds or documents for execution or registration in terms of law.
   (b) prepare diagrams and general plans for execution.
   (c) ensure that the necessary financial arrangements have been made for all transactions he registers.
   (d) Both (a) and (b) above.

2. Under common law, the risk of damage to property will pass to the buyer:
   (a) once the agreement of sale is concluded.
   (b) when the buyer takes possession of the property.
   (c) on registration of transfer.
   (d) once the purchase price has been paid.

3. The preparation certificate on a deed of transfer must be signed by:
   (a) the owner of the property.
   (b) a conveyancer.
   (c) the registrar of deeds.
   (d) any one of the above.

4. When a husband in a customary marriage enters into a second marriage, the proprietary consequences of that marriage will be:
   (a) in community of property.
   (b) governed by African Customary law.
   (c) governed by a written contract approved of by court.
   (d) Any one of the above.

5. The *preamble* of a deed of transfer describes the:
   (a) property to be transferred.
   (b) transferor of the property.
   (c) transferee of the property.
   (d) *causa* for transfer.
6. A transfer duty receipt must be obtained:
   (a) before transfer.
   (b) after transfer.
   (c) from the Registrar of deeds.
   (d) Both (b) and (c) above.

7. Which of the following statements regarding mortgage bonds is/are correct?
   (a) If the mortgagor defaults with his or her mortgage bond repayments, the mortgagee can sell the property and use the proceeds of the sale to satisfy its claim against the mortgagor.
   (b) If the mortgagor becomes insolvent, the mortgagee has a preferent claim over the property.
   (c) The mortgagee must consent to the cancellation, if the mortgage bond is to be cancelled.
   (d) All of the above.

8. A section 42(2) certificate on a power of attorney to pass transfer must be signed by the:
   (a) conveyancer.
   (b) Registrar of Deeds.
   (c) Master of the High Court.
   (d) executor.

9. In order to verify the full and correct name of a close corporation, the conveyancer should check the:
   (a) certificate of incorporation.
   (b) member’s identity document.
   (c) close corporation’s letterheads.
   (d) bank statements.

10. The body corporate of a sectional title scheme is made up of:
    (a) every owner of a unit.
    (b) the conveyancer and the Registrar of deeds.
    (c) a land surveyor or an architect.
    (d) all holders of mortgage bonds in the scheme. [10 × 2 = 20]

(ii) **TRUE OR FALSE QUESTIONS**

Choose whether the following are True or False. If you decide that the statement is false, motivate your answer.

1. A valid agreement of sale of land can be in writing or oral.

2. The cooling-off provision in terms of section 29A of the Alienation of Land Act will not apply to sales in which the purchase price exceeds R250 000.

3. Marital status affidavits must be lodged in the deeds registry to prove the status of both parties to a transfer.
4. If a transfer of property and bond registration over the same property are attended to by the same conveyancer, the documents may all be lodged in the same lodgement cover for ease of linking the transactions.

5. In a sectional title scheme, when a section is sold, it must be sold together with its undivided share in the common property. [5 × 2 = 10]

(iii) MATCHING-STATEMENT QUESTIONS

Match the statements in Column B to the statements in Column A. Write down the answers only, for example 1. (a).

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. power of attorney to pass transfer</td>
<td>(a) used only in deceased estate transfer</td>
</tr>
<tr>
<td>2. regulation 68</td>
<td>(b) refers to common property</td>
</tr>
<tr>
<td>3. section 42(1) certificate</td>
<td>(c) authorises conveyancer</td>
</tr>
<tr>
<td>4. usufruct</td>
<td>(d) used when title deed is lost</td>
</tr>
<tr>
<td>5. exclusive use area</td>
<td>(e) refers to a type of servitude</td>
</tr>
<tr>
<td></td>
<td>(f) allows a mortgage bond registration</td>
</tr>
</tbody>
</table>

[5]

[35]
SECTION B: QUESTIONS (45 MARKS)

ANSWER ALL THE QUESTIONS

QUESTION 1

Define or explain the following terms:

(a) the preparation certificate on a deed of transfer (3)
(b) examination of deeds in the deeds registry (2)
(c) certificate of registered title (2) [7]

QUESTION 2

State four items of information that an approved diagram establishes regarding a unit of land represented thereon. [4]

QUESTION 3

Answer the following questions regarding the agreement of sale:

(a) When a deposit is paid to the seller’s attorney on signature of the agreement, where will the attorney hold the deposit? (1)
(b) When will the conveyancer pay the purchase price over to the seller? (1)
(c) Explain the effect of a “voetstoots” clause. (3) [5]

QUESTION 4

List four circumstances when section 29A of the Alienation of Land Act (the ‘cooling-off’ provision) will not apply. [4]

QUESTION 5

Name four documents that the conveyancer will prepare for signature by a transferor, who is an unmarried person. [4]

QUESTION 6

Identify the document that must be lodged as proof that a deceased died intestate, in the case of a transfer of property from a deceased estate to an heir. [2]
QUESTION 7
List three documents to be lodged when cancelling a mortgage bond. [3]

QUESTION 8
Explain what the following clauses in a standard mortgage bond provide for:
(a) the costs clause (1)
(b) the ranking clause (2) [3]

QUESTION 9
What is a servitude? [2]

QUESTION 10
(a) List four documents to be lodged when applying for a certificate of consolidated title. (4)
(b) Can two properties that do not share a borderline be consolidated? (1) [5]

QUESTION 11
(a) Define a unit in a sectional title scheme. (2)
(b) By means of what document is ownership of a unit in a sectional title scheme transferred? (1)
(c) Define an exclusive use area in a sectional title scheme. (2)
(d) How or by means of what document is ownership of an exclusive use area in a sectional title scheme transferred? (1) [6]

[45]
SECTION C: PRACTICAL APPLICATION QUESTIONS

ANSWER BOTH QUESTIONS

QUESTION 1

You are a conveyancer instructed to register the mortgage bond of Joane Peters in favour of BestBank.

The title deed for the property to be mortgaged describes the owner of property as Jane Peters.

(a) What type of application must you lodge to correct the error? Be specific. (2)

(b) What type of document must Joane sign in support of the application? (1) [3]

QUESTION 2

African Investments (Pty) Ltd, a vat vendor, sells property to Thandi Gartner.

African Investments (Pty) Ltd is represented by its director, Paul Urban.

Thandi is married to Peter Gartner. Thandi and Peter were married in Paris, France. At the time they were married, Peter’s domicile was in Switzerland and Thandi’s domicile was in South Africa.

Thandi is obtaining a mortgage bond to finance the purchase of the property.

African Investments have two existing bonds that must be cancelled.

(a) Will Thandi be liable to pay transfer duty or VAT or both? Give a reason for your answer. (2)

(b) There is a sum of R10 000.00 in unpaid rates in respect of the property. How is this relevant to the registration of transfer? (2)

(c) The laws of which country govern Thandi and Peter’s marriage? (2)

(d) By means of what document will the authority of Paul Urban to represent African Investments (Pty) Ltd usually be established? (2)

(e) What is the causa for this transfer? (2)
(f) Indicate the linking and the deeds office codes of the batch of deeds to be lodged in the deeds office. (5)

(g) Why are these deeds linked together? Explain fully. (2) [17]

Section A: 35 marks
Section B: 45 marks
Section C: 20 marks
TOTAL: 100 MARKS