



THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

CONVEYANCING

11 May 2021

0830 – 1000
(90 minutes)

Candidates are required to answer TWO out of three questions.

Question 1

Selina has agreed to sell her flat to Paul. They discussed the matter at some length, but nothing has since been written down. Since their initial conversation, Selina has allowed Paul to access the flat on a number of occasions in order for his architect to view the property with a view to carrying out a number of renovations there. When they are there, Paul and the architect discuss the purchase of various materials which will be necessary for the renovations.

After the third such visit, Selina was approached by Quentin. Quentin presented Selina with a written contract of for the purchase of the flat at a higher price than Paul had offered. Selina signed the contract. Soon after the contract was signed, Quentin happened to meet Paul's architect and learned of Selina's agreement with Paul.

When each learned of the other's agreement, both Paul and Quentin contacted Selina and demanded a disposition of the property. Selina granted a disposition of the property to each of them: she granted one first to Quentin and then to Paul. Paul, however, submitted his disposition for registration first.

Which of the dispositions should the Keeper accept for registration? Is either disposition vulnerable to reduction?

Question 2

Nadia lives on a farm in Ross-shire, she purchased the farm from Oliver, six months ago. Oliver had acquired the farm 8 months prior to the sale to Nadia. Oliver's acquisition triggered first registration.

Both Oliver and Nadia have taken access to the property using a private road which runs across Peter's land. Peter's land is not yet on the Land Register. Nadia's title sheet shows it as the benefited property of a servitude of access which runs along the road. No mention is made of any right to repair.

The road has recently fallen into disrepair. When Nadia sought to undertake repairs to the road, Peter objected. He claims that his title shows no right of access across the land in favour of and that no such access was taken by Oliver's predecessor who had owned the farm for 30 years.

Nadia has contacted the solicitor who handled the conveyancing who confirms that the servitude was shown on the title sheet when he examined it prior to Nadia's acquisition.

Is Nadia entitled to undertake the repairs? Would it make any difference if the servitude had not been on the title sheet prior to the transfer for Nadia?

Question 3

Alfred, Bertie and Colin all live in a housing estate. Bertie's house is between Alfred's and Colin's. The houses were built and first sold in 1983 and 1984. Identical burdens, restricting the keeping of pets, use of the premises for commercial purposes and the use of premises to house more than one household were imposed in the first disposition or each of the houses. The dispositions made no explicit provision about who could enforce the burdens. No preservation notices were registered with respect to the burdens. The dispositions also provide that the boundary walls between the gardens are owned in common.

Colin has recently started letting out rooms in his house to holidaymakers. This has resulted in a significantly increased traffic on the street, which sometimes makes it difficult for residents to find parking spaces. Noise from the holidaymakers also keeps Alfred awake at night on quite a regular basis.

Can either Alfred or Bertie enforce the burden against Colin to prevent the activity? Would it be possible for Colin to have the burdens varied so as to permit the activity?

END OF QUESTION PAPER