

# THE REPUBLIC OF SOUTH AFRICA

## CONVEYANCING EXAMINATION

### PART 2

14 SEPTEMBER 2022

4 Hours

09:00 - 13:15

*Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answer book during this period. The examination of 4 hours then follows.*

#### PLEASE NOTE:

1. Please write the number allocated to you on the cover of your answer book.
2. Candidates **must** write legibly and neatly. What may appear to a candidate (being accustomed to his own handwriting) to be legible, may **not** be legible to the examiners who cannot be expected to guess what has been written, nor would it be correct or fair (to other candidates) to expect the examiners to do so. If a candidate's handwriting is not **clearly** legible to the examiners, the candidate runs the risk of losing many marks. **ANSWERS MUST BE WRITTEN ONLY IN INK OR WITH A BALLPOINT PEN.**
3. Please use only **one** side of each page.
4. Details, especially the description of properties, may be changed to comply with the practice prevailing at your Deeds Office. However, if a question relates to farm property, the description may **NOT** be changed to that of an erf in a township.
5. Candidates must furnish such further details as may be necessary to draw properly the required deeds or documents, e.g. abbreviations (ID XXX), alphabetical symbols for names, and "etc."/"...." are unacceptable.
6. Deeds and documents to be drawn must comply fully with the requirements of the Deeds Registries Act and regulations, i.e. as if intended for lodgement in a deeds registry.
7. Candidates **MUST ANSWER ALL** questions.
8. Except if a special reason exists, a candidate will not be required to do an oral if 50% aggregate or more is attained. If a candidate achieves an aggregate of between 40% and 49% he/she will have failed the examination and will be required to do an oral in order to convince the examiners that he/she does have sufficient knowledge to pass the exam. Candidates who attain less than 40% will not qualify for an oral and will have failed this examination.

**TOTAL MARKS: [200]**

- 1.1 Temoho Kota and Meriam Kota own a residential property known as Erf 321 Moreleta measuring 998 square metres held by a Certificate of Consolidated Title T1111/2012, as depicted on consolidation diagram 9876/2011. They were married out of community of property. They are now divorced and Meriam is entitled to the half share of Temoho in the property by virtue of the decree of divorce and a settlement agreement which was made an order of court. The parties have agreed in the settlement agreement that Meriam shall not sell the property without first offering it to Temoho. The full value of the property is R3 000 000,00. Draw up the necessary document to be signed by the transferor to pass transfer of the half share to Meriam. Invent such further details as may be necessary. (12)
- 1.2 Calculate transfer duty payable on the abovementioned transfer? (2)
- 1.3 Imagine that the parties were married in community of property to each other and the relevant extract of the settlement agreement which was made an order of the court read *"The joint estate shall be divided equally"*. The parties have now agreed to sell the property to a third party purchaser without amending the settlement agreement. Answer the following questions:
- 1.3.1 Describe the parties in the power of attorney to transfer; (3)
- 1.3.2 Would it be necessary to amend the settlement agreement? Motivate your answer; (3)
- 1.3.3 Indicate both when it would be necessary and when it would not be necessary to have the amendment made an order of the court? (4)
- 1.4 Draw up a deed of transfer where Meriam Kota is acquiring the half undivided share of the abovementioned property. Invent such further details as may be necessary. (10)
- 1.5 Imagine again that the parties (Temoho Kota and Meriam Kota, married in community of property) have sold, immediately after the divorce and before dealing with the property in any way, the property to a third party purchaser, (Thomas Chauke, married by customary law to Leandri Chauke in 1998) for R3 500 000,00. In terms of the sale agreement the purchase price will be paid in six (6) equal instalments with two (2) instalments each year. The property is mortgaged with ABC Bank for R124 340,00 and is still owing. Answer the following questions in this regard.
- 1.5.1 Draw the necessary document to be filed with the deeds registry so as to protect the purchaser; (14)
- 1.5.2 Which documents must be lodged with the deeds registry to give effect to the above; (2)
- 1.5.3 Draw all the necessary documents to be filed with the deeds registry immediately prior to the registration of the document referred to in 1.5.1 above; (20)

- 1.5.4 List all the documents to be lodged with the deeds registry to register the transaction in 1.5.1 and 1.5.3 above so as to avoid rejection, indicating lodgement codes to be reflected on the cover; (8)
- 1.5.5 Draw the necessary document to be signed by the mortgagee where the full outstanding balance has been settled in full and the property is being transferred. The bond was registered in favour of ABC Bank, now known as ABC Mortgage Limited which in turn has transferred all its assets and liabilities in terms of Section 54 of the Banks Act to Petcor Bank, now known as Petbank. Pieter Van Niekerk and Tumelo Malatji being the agent of the bank are empowered to act on behalf of the bank under a duly registered power of attorney. (12)
- 1.6 Thomas Chauke has agreed to take occupation of the Erf 321 Moreleta. To be in a position to fund the transaction, it is essential that the purchase be made subject to the sale of Thomas Chauke's existing property, Erf 123 Bendor Ext 98, for a sum not less than R1 500 000,00, the proceeds of which sale will be appropriated towards the purchase price payable by Thomas Chauke to Temoho Kota and Meriam Kota. Draw such condition as may be required for insertion in the deed of sale between Temoho Kota and Meriam Kota, on the one hand and Thomas Chauke, on the other, in order to protect Thomas Chauke 's interests as purchaser. (12)
- 1.7 Thomas Chauke wants to be able to settle the outstanding balance of the purchase price either by cash or by a mortgage-backed loan. Draw the necessary clause in the deed of sale to that end. (5)
- 1.8 Thomas Chauke has now managed to raise funds to settle the outstanding balance of the purchase price through a loan from his bank, XYZ Bank Ltd. for an amount of R1 200 000,00 (being equal to the outstanding purchase price at the time). XYZ bank has instructed L Botha Inc. to attend to the registration of the bond. According to the cancellation attorneys, Matibe & Rhemtula Inc. their costs are R5 000,00 and the outstanding balance on the seller's existing bond is R50 000,00 plus interest at 15% per annum from date of issue. The other funds paid by the purchaser on account of the purchase price have now been released to the seller in terms of a signed addendum. Providing your own further particulars, where necessary, without deviating from the above-mentioned facts, **prepare** a written request to L Botha Inc. wherein you stipulate the guarantee/s that you require to attend to the transfer of the property. The request must clearly state the amount of the guarantee/s, interest payable and the conditions whereupon they will be paid. The seller's property is bonded to ABC Bank Ltd., which issued their cancellation figures on the 1<sup>st</sup> of August 2022. (12)
- 1.9 Taking into account the above facts in relation to the sale transaction between the Kota's and the Chauke's and the fact that the transaction was registered on the 31<sup>st</sup> of August 2022, draw the final statements of accounts to both parties. On registration the following payments were made: (35)

- 1.9.1 The agents commission in the sum of R250 000,00 to Living Large Properties;
- 1.9.2 The sum of R2 500,00 for the Electrical Compliance certificate to Expert Wiring;
- 1.9.3 The sum of R2 000,00 for the issue of the entomologist's certificate to Expert Pest;
- 1.9.4 The sum of R5 000,00 to Matibe & Rhemtula Inc. for the cancellation of the existing bond in favour of ABC Bank Ltd;
- 1.9.5 The sum of R53 000,00 (inclusive of interest) owing to ABC Bank Ltd.;
- 1.9.6 The sum of R4 500,00 to S Manabele Attorneys for uplifting the interdict recorded over the property;
- 1.9.7 The rates and taxes paid by the attorneys for the period August to September 2022 amounted to R10 000,00;
- 1.9.8 The levies payable to the HOA (Homeowners' Association) for the period July 2022 to September 2022 was R6 000,00;
- 1.9.9 An amount of R200,00 was paid to the municipality for the issuing of the Rates Clearance Certificate;
- 1.9.10 An amount of R800,00 was paid to the HOA manager for the issuing of the Levy Certificate;
- 1.9.11 The transfer costs and disbursements (excluding transfer duty which was settled separately) as per the statement amounted to R35 000,00 and was duly settled;
- 1.9.12 The transfer duty was duly settled;
- 1.9.13 The purchasers have earned interest on the initial deposit of R1 500 000,00 in the amount of R15 000,00;
- 1.9.14 The instalments payment made by the purchaser amounted to R800 000,00;
- 1.9.15 The transferring attorney attended to drawing of the addendum to Sale Agreement at the cost of the purchasers at R2 000,00;
- 1.9.16 Occupational interest was paid for August and September 2022 into the trust account of the transferring attorneys at R25 000,00 per month and is still held in trust.

**QUESTION 2****[36]**

A property known as Unit No. 223 and a Parking No. P233 in the scheme Tinza Lifestyle are registered under Deed of Transfer ST43007/2011 and Notarial Deed of Cession SK3213/2011 respectively in the names of Daniel Craford and Rebecca Botha, who were married in community of property at the time of their death. Rebecca Botha had only after the registration of the transfer adopted her husband's surname. Mr Craford died first and Mrs Craford died later on 16 January 2020 before the estate of the husband had been finalised. Both parties died intestate and were survived by their major children. The children had renounced their right to inherit from the estate of their father. The right of extension in the scheme has lapsed.

- 2.1 Draw the necessary document to most efficiently transfer the unit and the parking from the estate of Daniel Craford. (14)
- 2.2 List documents that must be lodged to give effect to the transfer of the unit and the parking. (12)
- 2.3 Draw the two (2) certificates to be signed by a conveyancer, which are to be lodged with the Deeds Office. (10)

**QUESTION 3****[10]**

A private company with the name "Littleswift" is the registered holder of Mortgage Bond B67000 registered in 2020 for the sum of R1 200 000,00 with an additional amount of R120 000,00, which was passed by "TCM Trust" for a debt owing to the company. Littleswift has now sold the debt to a close corporation with the name "DEVMO". Inventing your own facts where necessary, draw the necessary document to transfer the registered mortgage bond.

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- THE END -

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