Ranking-of-Privileges Problems

I.

Olide sells his farm, Belle Terre, to Pascal for $150,000, on credit. Oldie records the act of sale in the conveyance records that same day. The next day Pascal borrows $100,000 from Cajun Bank (Cajun). To secure repayment of the loan, Pascal grants Cajun a valid mortgage on Belle Terre. The mortgage is duly and promptly recorded that same day. Two days after that (three days after the sale), Olide records the act of sale in the mortgage records. Pascal then hires Jean Sot to plant a soybean crop on Belle Terre, for which Pascal is to pay Jean Sot $10,000. At the same time, Pascal buys a new tractor from Mermentau Farm Equipment (MFE), on credit, for $20,000. To plant the crop, Jean Sot uses seeds, fertilizer, etc., purchased by Pascal, on credit, from Gator Hardware (Gator), in the amount of $10,000. After that, Pascal borrows $30,000 from Evangeline Finance (Evangeline). To secure repayment of this loan, Pascal grants Evangeline a security interest on both the soybean crop and the tractor. Evangeline’s security interests are duly perfected by means of appropriate filings. Then Pascal contracts the latest strain of “bird flu”, requiring that he be hospitalized at the Gueydan General Hospital (GGH). During his two-week stay there, Pascal racks up charges for doctors’ and nurses’ services and for medicines in the amount of $20,000. In the meantime, the tractor breaks down. With Pascal’s permission, Jean Sot takes the tractor to “Tinkus”, who repairs it for a charge of $1000 ($600 for labor, $400 for parts). After two weeks in the hospital, Pascal dies. He is buried by the Vermilion Funeral Home (VFH) for a charge of $5,000. Tinkus still has (precarious) possession of the tractor. Pascal hadn’t yet paid anybody anything.

A. The soybean crop. – Answer these questions:

1. Who has security in the soybean crop? What kind of security is it?

2. Among those who have security in the soybean crop, does any of them now need to “do anything” in order to make his security effective against third parties? If so, who is that and what must he / they do?

3. Assume that the soybean crop is sold at a judicial sale at the request of the secured creditors. Who gets what? Why? Assume that whatever you concluded, in your answer to “2”, had to be “done” to make this or that security effective against third persons was, in fact, done.

B. The tractor. – Forgetting Sub-Part A, answer these questions:

1. Who has security in the tractor? What kind of security is it?

2. Among those who have security in the tractor, does any of them now need to “do anything” in order to make his security effective against third parties? If so, who is that and what must he / they do?
3. Assume that the tractor is sold at a judicial sale at the request of the secured creditors. Who gets what? Why? Assume that whatever you concluded, in your answer to “2”, had to be “done” to make this or that security effective against third persons was, in fact, done.

C. The land. – Forgetting Sub-Parts A & B and assuming (contrary to reality) that, after the liquidation of the soybean crop, the tractor, and Pascal’s other movables, all of Pascal’s debtors remain completely unsatisfied, answer the following questions:

1. Who has security in Belle Terre? What kind of security is it?

2. Among those who have security in Belle Terre, does any of them now need to “do anything” in order to make his security effective against third parties? If so, who is that and what must he / they do?

3. Assume that Belle Terre is sold at a judicial sale at the request of the secured creditors. Who gets what? Why? Assume that whatever you concluded, in your answer to “2”, had to be “done” to make this or that security effective against third persons was, in fact, done.

II. The facts are the same as in Part I, except that (i) Olide, instead of selling Belle Terre to Pascal, leases it to him for a year at a rent of $60,000; (ii) Pascal, instead of mortgaging Belle Terre itself to Cajun, mortgages his lease of Belle Terre to it; (iii) when Pascal dies, he still owes Olide the full amount of the rent. Now answer the same questions that were posed in Part I, Subparts A and B (but not C!), making appropriate adjustments as may be necessary to take account of these different facts. You may assume, if you find it useful to do so, that the privilege established by CC art. 3217(3) is available to the workers of a predial lessee and extends to farm equipment of the predial lessee. May heaven help you.