

2) Please type the answer to Question 2 below.**À**

When finished with this question, click to advance to the next question.
(Essay)

I. FRAUD

The facts state that the cause of action was fraud in the execution of a land-sale contract. Here, there are two main issues of fraud - first, despite his knowledge, Steve (S) failed to disclose to Betty (B) that the parking lot on the adjacent lot was going to be converted into an office building, and he brazingly told B that he believed that B would be able to continue that arrangement and park there for \$50 a month. Second, S failed to disclose to B that the previous owner before him was murdered on the premises.

In contract law, there are two types of fraud - fraud regarding the terms of the contract and fraud regarding the execution of the contract. The second type of fraud mostly refers to the situation where the signatory was unaware of the nature of the document. However, because the facts state that this was a valid written contract to deed the condo (also fulfilling the statute of frauds since this is a land sale contract), the first type of fraud is likely to apply here.

S will likely argue that he did not commit any fraud since he disclosed to B that there was no deeded parking along with the unit. However, the court will likely find that there was fraud since he told B that she could park at the adjacent lot despite him knowing that it would be converted into an office building. While on one hand, S will argue that in Property law, upon closing, the contract terms merge into the deed terms; the court will likely find that the case can be brought under once of the covenants on the deed.

As for the second issue, in California, the law states that it is mandatory to disclose all deaths that occurred on the property premises. By failing to do so, S

committed an act of fraud and concealment that greatly affects the value of the condo.

Therefore, the court is likely to rule in B's favor in her lawsuit.

II. REMEDIES

Money/Legal Remedies

First, we will analyze and see what legal remedies are available to B.

Compensatory Damages

Under contract law, compensatory damages are calculated by subtracting the contract price with the fair market value.

Here, the facts state that B originally purchased the condo for \$200,000 yet was unable to receive any offers more than \$160,000 when she put it back on the market - despite her many upgrades. Therefore, B's compensatory damages will likely amount to \$40,000.

Consequential Damages

In addition to compensatory damages, B can also seek consequential damages - which are damages that occur naturally out of the result of the breach of contract.

Here, the facts state that B immediately made improvements to the condo that totalled \$22,000 (\$20,000 for having the condo repainted, windows replaced, and deck addition; \$2,000 to replace the bathtub with a shower).

Therefore, B can claim consequential damages of \$22,000 for the improvements that she made to the condo.

Reliance Damages

Reliance damages are those that occurred when the buyer relied upon the seller's assurances.

Here, the facts state that S originally told B that she would be able to park for \$50/month in the adjacent lot. However, when B found out that the parking lot was going to be converted to an office building, the closest alternative that she could find for parking was \$100/month a block away.

Therefore, B can claim reliance damages of an extra \$50/month for the months between August and whenever she ends up selling the condo.

Incidental Damages

Incidental Damages usually occur in contracts for the sale that are governed under the UCC, so it does not apply here.

Liquidated Damages

In some land sale contracts, there is a term specifying the amount of liquidated damages one receives if there is a breach. However, this is unlikely to occur here since closing has already occurred and the contract terms are merged into the deed. In addition, the facts do not state any existence of any liquidated damages terms.

Punitive Damages

In cases of gross and egregious conduct, the court could reward the plaintiff punitive damages as punishment towards the defendant. Here, S failed to disclose to B the closing of the parking lot despite his knowledge and that a murder happened on the condo premises. The court could possibly find for S that this was gross and egregious conduct for such acts of fraud, so B should make this claim in her complaint.

In conclusion, B could reasonably seek \$40,000 in Compensatory Damages,

\$22,000 in Consequential Damages, Reliance Damages of an extra \$50/month for the months between August and whenever she ends up selling the condo, and she should also make a claim for Punitive Damages.

Equitable Remedies

Injunction

Injunction is a court order preventing one party to act on something. It does not make sense for B to claim one here in her situation.

Equitable Lien/Trust

An equitable lien or trust is a remedy used in a situation where the plaintiff's property is taken away and used by the defendant to unjustly enrich him or herself. It does not make sense for B to claim one here in her situation.

Specific Performance

This is usually used in instances to order the defendant to give over property - which is not the situation in our case. Therefore, it does not make sense for B to claim one here.

Restitution Remedies

Resitution Damages

Restitution Damages are claimed in the situation where there is unjust enrichment on the case of one party. Here, B could conceivably claim that S was unjustly enriched since he was able to sell his condo at a price above the fair market value due to his acts of fraud.

Therefore, B could reasonably seek resitution damages.

Recission

Recission is the judicial undoing of a contract. This remedy is allowable if 1) there has been mistake or misunderstanding in the execution of the contract; 2)

one of the parties have been unjustly enriched; 3) re-writing is necessary for the parties' true intent.

Here, because there was fraud in the contract and not a mistake or misunderstanding, rescission is not a suitable remedy for B's case.

III. CONCLUSION

Therefore, for Legal Remedies, B could reasonably seek \$40,000 in Compensatory Damages, \$22,000 in Consequential Damages, Reliance Damages of an extra \$50/month for the months between August and whenever she ends up selling the condo, and she should also make a claim for Punitive Damages. None of the available Equitable Remedies apply for B's situation, so she could not reasonably seek any. As for Restitution Remedies, B could seek restitution damages.

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