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Steve may ask the court for Specific Performance

For the court to enforce specific performance, there must have been a valid contract, there is no other adequate remedy, enforcement is feasible and there is not defenses to the contract.

Valid Contract

Here, the facts stated that Barbara offered to buy Steve's property and that Steve accepted Barbara's offer with a condition that he would retain the mineral rights. While Barbara's assured him that his condition was included in the contract, in fact Barbara's did not.

Fraud

Fraud is an intentional misrepresentation of fact, the defendant was aware that the misrepresentation was wrong, the plaintiff relied on the misrepresentation, and suffered damages.

Here, Barbara told Steve that she included the mineral rights condition in the contract. Barbara intentionally misrepresented the mineral rights in the contract because she wanted the mineral rights for her self. Further, Steve relied on her misrepresentation because he went ahead and sold his property while under the impression that he is keeping the mineral rights.

Thus, Barbara would be found guilty fraud.

Inadequate Remedies

Here, Steve wants to keep his mineral rights. Steve is not requesting legal damages, just the condition the he as access to the land for the minerals.

Thus, the inadequate remedies element is satisfied.

Feasibility of Enforcement

Here, the court can enforce Barbara to give back the right for Steve to enter the property for the minerals because Barbara told Steve that she left the condition in the contact.

Mutuality of the Parties.

Here, Barbara was to pay \$500,000 and Steve was to sell his property to Barbra.

Thus, there is mutuality between Steve and Barbara.

Contract Defenses

Fraud

See Supra

Here, Steve will say that Barbara told him that she included his condition in the contract prior to Steve signing. Further, Steve will say that Barbara intentionally misrepresented to him the fact she let him retain the mineral rights because she wanted it for herself.

However, Barbara will argue that Steve could have read the agreement himself. Barbara will say that Steve was not forced to enter the agreement, no one rushed him, and Steve should do his own due diligence. While this argument is persuasive because it is true Steve should have done his own due diligence before agreeing to sell his property, the fact remains is the Barbara intentionally misrepresented to him that Steve's condition are included in the contract.

Thus, the court will likely enforce specific performance and allow Steve to maintain his mineral rights.

Reformation

The court may reform a contract to the intention of the parties.

Here, Steve will say that he made it clear that he wanted to keep the mineral rights. However, Barbara would argue that she never intended to give Steve mineral rights.

Thus, formation would not apply here.

Statutory of Frauds

Under the Statutory of Frauds, land sale contract must be in writing to be enforceable.

Here, there was a contract because both Barbara and Steve signed it.

Thus, statutory of frauds is satisfied.

Profit and License - Steve

Profit allows the plaintiff to continue to profit from the land. While a License allows the plaintiff to enter the land.

Here, Barbara erected barricades to prevent access to the land. In essence, she revoked Steve's license to enter the land and his ability to profit from the minerals.

Thus, Steve's license and right to profit have been revoked.

Constructive Trust - Acme

A constructive trust is a remedy to prevent unjust enrichment. If a constructive trust is enforced, the defendant would have to hold the property in a trust until the courts determine the final outcome. A constructive trust can be enforced if 1) the defendant obtained the property wrongfully, 2) there will be irreparable harm if a constructive trust is not enforced, 3) the plaintiff will suffer a hardship if a constructive trust is not enforced.

Here, Barbara obtained the money wrongfully because the facts stated that she embezzled from her employer. There will be irreparable harm to Acme if Barbara was to disperse all the assets wrongfully taken before the case can be heard in court. Acme will suffer a hardship if a constructive trust is not enforced because Barbara has been fired, and there would be no way for Acme to collect in the future for all the stolen cash.

Equitable Lien - Acme

An equitable lien will give the plaintiff a priority on the defendant's debts. This would force the defendant to first reimburse the plaintiff before other creditors.

Here, the court will order an equitable lien on Barbara's assets, so that she can repay Acme for all the embezzled money.

Replevin - Acme

The courts will allow the plaintiff to hold, before trial, the specific personal property wrongfully taken.

Here, the court would allow Acme to hold any remaining money that Barbara currently has until a court can determine the case.

What amount of money may Acme recover?

The facts stated that she embezzled \$250,000 for Steve's property, and another \$20,000 which she deposited in her checking account. Thus, she embezzled \$270,000 plus any interest that has accumulated.

Question #2 Final Word Count = 855

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