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Cause of Action

Common Law

A contract that deals with the sale of land is governed by the common law.

At issue is a contract cause of action because the facts state that Steve owed property that Barbara offered to buy for \$500,000. This involves the sale of land which is governed by the common law.

Contract Formation

A valid contract includes an offer, acceptance, consideration and no defenses.

Offer

An offer must evidence an offeror's intent to be bound by the certain and definite terms of the contract.

Here, Barbara offered to buy Steve's property for \$500,000. This offer by Barbara arguably evidences her intent to be bound because she is offering Steve \$500,000.

Steve's Acceptance / Counteroffer

An acceptance is an unequivocal manifestation of an individual's assent to be bound by the terms of the offer. Under the common law an acceptance must follow the mirror image rule. This means that the acceptance must mirror the terms of the offer in order to constitute an acceptance. Here, Barbara offered to buy Steve's property for \$500,000. Steve responded by agreeing to sell, provided that he retained the mineral rights and had access to the land. Steve adding that he wanted to retain the mineral rights and have access to the land is not an acceptance under the common law because it does not mirror the terms of Barbara's offer which is to purchase the property for \$500,000. Instead, Steve's response is a counteroffer to Barbara because Steve is conditioning the acceptance of Barbara's terms on the fact that Barbara must accept allowing Steve to retain the mineral rights and have access to the land.

Barbara's Acceptance

The facts indicate that Barbara later accepted Steve's conditions and said that she would tell her attorney to prepare the necessary papers. Barbara's acceptance of Steve's conditions of allowing him to retain mineral rights and have access to the land is an acceptance of Steve's counteroffer because she does not introduce any new conditions or terms and instead accepts Steve's conditions. Thus, there is an acceptance here by Barbara.

Consideration

Consideration is when each party suffers a legal detriment at the expense of the opposing party. detriment that Steve suffers is that he is handing over his property to Barbara. The legal detriment that Barbara suffers is that she is agreeing to pay \$500,000.

Contract Formation Defenses

Misrepresentation

Misrepresentation is a defense to contract formation when (1) an individual knowingly or with reckless disregard to the truth asserts a material fact that is false; (2) this material fact was made with the intent to induce reliance; (3) it did in fact induce reliance; (4) the reliance was justifiable.

Here, when Steve met with Barbara to sign the papers, he asked if the documents included his conditions and she assured him that they did. In fact, Barbara had not told her attorney of Steve's conditions to retain his mineral rights and have access to the property, and they were not in the papers that he and Barbara signed. Here, Barbara knowingly stated that the documents did contain the conditions that Steve had asked for. The conditions that Steve had asked for were of material fact because the facts indicate that Steve agreed to sell the property provided that he retained the mineral rights and had access to the land. This means that Steve arguably would not have signed the papers or agreed to the sale if he had known that the property did not contain these conditions because he was only agreeing to sell the property based on these conditions. Barbara's assurance did in fact result in reliance because the facts indicate that there was a sale, meaning that Steve went ahead and signed the papers under the presumption that it contained the conditions that Barbara stated it contained. Steve was justified in relying on Barbara's statement because it was Barbara who requested her attorney to prepare the documentation and it was Barbara that said she would tell her attorney to prepare the necessary papers after she agreed to accept Steve's conditions. Despite the fact that Steve did not read the papers before signing is not of relevance because Steve does not have to investigate the documents first. Thus, Steve may assert a the defense of misrepresentation and this may be grounds for rescission of the contract.

Unilateral Mistake

Unilateral mistake is a defense to contract formation when an individual was mistaken and the mistake adversely affects them and the defendant knew of the mistake or knew of the mistake and did not inform the plaintiff of the mistake.

Here, the facts indicate that Barbara knew she had not told her attorney of Steve's conditions and they were not in the papers. Despite this, Barbara assured Steve that the papers did contain the conditions that he had requested. Thus, Steve may assert a defense of unilateral mistake because this mistake does adversely affect him because it is the sale of his property and he loses his mineral rights and access to the property under the contract. The assertion of unilateral mistake may be grounds for rescission of the contract.

Steve's Recovery

Expectation Damages

Expectation damages are meant to place a person in the position they would have been in if the contract had fully been performed.

Here, Steve may be entitled to the difference between the fair market value of the property and the value of the contract. Arguably, Steve may have agreed to the \$500,000 because Barbara

was willing to allow him to retain his mineral rights and access to the land. Steve may contend that the value of the property is worth much more than \$500,000 because the mineral rights alone raise the value of the property and the fact that Steve sold it at \$500,000 was conditioned on the fact that he would retain such mineral rights. Steve may argue that if he had known that Barbara would refuse to let Steve and his geologist on the property and erect barricades to prevent their access, then Steve would have charged a much higher price for the property if it meant that he was going to lose his mineral rights and access to the land.

Consequential Damages

Consequential damages are those damages that are the natural and probable cause of the breach of contract.

Here, Steve may be entitled to consequential damages if given his inability to access his mineral rights and access the land, he has lost profits in other business ventures that he had, especially with the mineral rights. This is a natural and probable cause of the breach because Steve had specifically contracted to retain his mineral rights and it may be because he wanted to keep his mineral rights for other investments or business ventures that he had going on. Thus, Steve may be entitled to consequential damages from the lost of profits from those businesses that depended on his access to the property and the retention of his mineral rights.

Reliance Damages

Reliance damages are those damages that an individual incurs in reliance on the full performance of the contract. An individual may not recover both reliance damages and expectation damages. They may only recover one or the other.

Here, Steve may assert that he reasonably relied on maintaining the retention of his mineral rights and access to the property when he not only signed the contract but also when he contracted with the geologist to investigate whether his former property had any mineral deposits. Moreover, given that Steve wanted to retain his mineral rights arguably Steve suspected that there was valuable mineral deposits that he wanted to capitalize on. Steve may have had other investments or contracts that he entered into in reliance on the retention of his mineral rights. Thus, Steve may be entitled to reliance damages if he is unable to show expectation damages.

Acme v. Barbara

Restitution

Restitution is recovery based on a theory of unjust enrichment. An individual may recover for restitution if they have conferred a benefit on another or has increased that individual's wealth.

Here, Barbara purchased Steve's property in cash, which included \$250,000 of funds that she had embezzled from her employer, Acme. Barbara later embezzled another \$20,000 from Acme, which she deposited in her checking account containing \$5000 at the time. The following month, she paid off \$25,000 of her outstanding debts bringing her checking account balance to cme may be entitled to restitution because Barbara has been unjustly enriched at the expense of Acme. Barbara is unjustly enriched because not only did she receive property on Acme's dime -- Steve's property -- but she was also able to pay off her outstanding debts,

which increased her wealth, even if it got her balance to zero. This indicates that Barbara's embezzlement of a total of \$270,000 was enough to confer a sizable benefit upon her at the expense of Acme because she was able to retain property and increase her wealth by no longer being in debt. Thus, Acme may be entitled to restitution on the theory of unjust enrichment.

Acme v. Barbara's Checking Account

Creditor

Here, Barbara deposited \$10,000 of her own money into the checking account. Arguably Acme may be treated as a creditor who is able to reach Barbara's assets because Acme provided Barbara \$270,000 in funds to not only retain property but also to get her to net zero within her bank account. Thus, Acme arguably may recover the \$10,000 from Barbara's bank account.

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