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1. Steve's equitable remedies against Barbara - for the omitted conditions

PAROL EVIDENCE RULE

Under law, contemporaneous or prior statements of negotiation is not admissible short of an exception.

Here, one such exception would apply to allow Steve to admit the evidence of the condition whereby he retained the mineral rights and would have access to the land. The reason is because this is first, a oral condition precedent (a condition that would have to occur for the contract to be valid and enforceable). Secondly, parol evidence would be allowed in cases of fraud, misrepresentation or other contract formation defense.

Thus, the agreement would be admissible in a court.

EQUITABLE REMEDY

In general, equitable remedy is not the preferred remedy to be granted by the court. It is only granted, in part, when legal remedy is inadequate or is unavailable.

Here, Steve (S) will argue that legal remedy is inadequate because his property rights or the rights to the mineral deposits cannot be easily compensated with a lump sum of money. As such, S will pursue the following equitable remedies. As such, S would argue that monetary damages is not sufficient because his land is also unique in that it could be mined.

Recession

Under contract, law recession is granted when there is not a meeting of the mind between the contracting parties or when there is a mistake, fraud or misrepresentation.

Here, S would ask a court for a recession because there was clear fraud on the part of Barbara because she purposefully withheld the condition to the attorney when the agreement was drafted. As such, a court would rescind the agreement and put the parties in a position before the contract so that S would have his land back as well as having access to the land.

This is probably the best option for S as it does not require a constant supervision from the court.

Reformation

Under contract, law reformation is granted when there is a bilateral mistake between the contracting parties or when there is a mistake, fraud or misrepresentation. It is also granted when there is an unilateral mistake when the non-mistaken party knows or should have known that the other party was mistaken.

Here, S would ask a court for a reformation because there was clear fraud on the part of Barbara because she purposefully withheld the condition to the attorney when the agreement was drafted. As such, S would ask the court to reform the agreement to reflect the true

understanding of the parties. S would ask for the stipulation regarding his ability to retain the minerals and have access to the land for the minerals.

Ejectment

An ejectment is a remedy that S may seek before court to have Barbara evicted from the land. More likely than not, this would resolve S's problem right away. But, a court is not likely to grant this as Barbara paid for the land.

Steve's equitable remedies against Barbara - for the barricade

The nature of the barricade is such that it prevents Steve from having access to the land. As such Steve could ask for an injunction to have the barricade removed.

An injunction comes in three types - TRO, Temporary and Permanent. They have different elements that need to be met before a court would grant it. The issue with all three types of injunctions, if the court were to grant it is the feasibility of enforcement.

The reason is, even if a court were to grant an injunction, court would not be able to provide consistent or even on-going supervision to make sure that B does not put the barricade or hire security to prevent S from entering.

SPECIFIC PERFORMANCE

Alternatively, S could ask for specific performance. The following elements must be met: 1) valid contract; 2) contract condition satisfied; 3) inadequacy of legal remedy; 4) mutuality of performance 4) feasibility of enforcement 5) No defenses such as laches or unclean hands.

Here, S would not be able to have a court grant specific performance because allowing S to enter and have access to the minerals would require ongoing supervisions by the court.

2. Acme's equitable remedies against Barbara

EQUITABLE REMEDY

Acme would pursue both

Constructive Trust and Equitable Lien against B. Constructive trust allows the plaintiff to acquire a title in the property. while an equitable lien allows the plaintiff to have something else.- a security interest

In either case, tracing is allowable and as such, Acme would use either to trace the embezzled money

3. Acme's equitable remedies

Constructive Trust and Equitable Lien against B. Constructive trust allows the plaintiff to acquire a title in the property. while an equitable lien allows the plaintiff to have something else.- a

security interest

The remedy would be for Acme to have the \$250000 back in damages by either constructive trust or equitable lien. This is because, both equitable remedies are awarded when the wrongdoer, in this case Barbar fraudulently took the money from Acme.

IN all, these equitable remedies would work as they would allow the embezzled money to be traced under a differnt form under equitable lien.

Question #2 Final Word Count = 858

END OF EXAM