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I. Governing Law

Contract for sale of goods is governed by UCC.

Here, Sam sold a violin to Betty, a sale of goods.

Thus, UCC is the governing law.

I. Claims by Betty Against Sam

1. Valid Contract

A valid contract requires: 1) offer, 2) acceptance, 3) consideration.

Here, Sam called to sell an Enrico Rocca violin, Betty agreed to buy it for \$200k, Sam signed and emailed his standard form sales contract to Betty. Betty signed, dated , and returned the contract to Sam along with payment. Sam then shipped Betty the violin.

Thus, a valid contract has been executed and enforced.

Rescission

A party is entitled to rescission of contract if there is mistake or misrepresentation by the other party, and the adversely impacted party would have not executed the contract absence such mistake or misrepresentation.

Here, Sam claimed it was a Enrico Rocca violin, Appraiser found it to be a replica. A mistake or misrepresentation exists. Though Sam sincerely believed the violin to be a genuine Rocca, the fact that Sam is a well-known dealer in valuable musical instruments, including antique violins would contradict Sam's assertion of good-faith belief of violin being an original rather than a replica. Betty would not have bought the violin at a price of \$200k absence of the mistake or misrepresentation of the violin being a genuine Enrico Rocca.

Thus, Betty is entitled to rescission of contract if mistake or misrepresentation is established.

Mutual Mistake

A mutual mistake is a mistake of material fact by both parties, which will render the basic assumption of the contract void.

Here, Sam sincerely believed the violin to be a genuine Rocca after Betty told him that the appraiser said it was a replica. Assuming Sam's belief is true, there is mutual mistake of the violin to be genuine Rocca.

Thus, the adversely impacted Betty is entitled to rescission of the contract.

Misrepresentation

Misrepresentation is a false statement or omission of material true fact made by one party

intending to induce the other party to execute a contract.

Here, Sam called Betty to sell a Enrico Rocca violin in the early nineteenth century, a misrepresentation of material true fact (genuine Rocca violin), which induced Betty to pay a high price of \$200k. Sam's assertion of good faith belief is likely not acceptable because he is a well-known dealer of antique violins.

Thus, misrepresentation by Sam is a viable argument.

Express and Implied Warranty

Under UCC, a seller owes the buyer an express/implied warranty of merchantability, where buyer relies on seller's expertise.

Here, Sam is a well-known violin dealer, who is supposed to have expertise in authenticity of violins, Betty relies on his expertise to sell a Rocca violin. Though Sam argued that the violin was 'sold as is, without warranty of any kind, express or implied.', this is not persuasive because Sam is a well-known violin dealer, expert in recognition of genuine and replica violin. Naming the violin specifically as Rocca is expressed or implied warranty of the authenticity.

Thus, express/implied warranty obligates Sam to sell a genuine Rocca violin.

Parol Evidence Rule

Parol evidence rule excludes extrinsic evidence that contradicts with the integrated contract terms. But subsequent evidence to prove falsity of the subject is not barred.

Here, Sam claimed that a merger clause 'This written contract contains the entire agreement between the parties and supersedes any and all prior written and/or oral agreements.' prevents any extrinsic evidence to contradict the contract terms. Nonetheless, the subsequent appraisal of the violin to be a replica Rocca is not barred by parol evidence rule.

Thus, the subsequent appraisal result is not barred by parol evidence rule.

Conclusion

In sum, whether by mutual mistake or misrepresentation by Sam, Sam breached the contract, Betty is entitled to rescission of the contract and parol evidence rule does not apply.

2. Damages

Legal Damages

In the case of denial of rescission of the contract, Betty is entitled to legal damages which include expectation damages, consequential damages, incidental damages.

Expectation Damages

Expectation damages put the non-breaching party in a position it should have been without the breach. It is the difference between the contract price and the fair market price.

Here, Betty paid \$200,000 for a genuine Rocca violin, she actually got a replica violin at the value of \$5,000. Betty is entitled to the difference of these two figures.

Thus, Betty is entitled to expectation damages of \$150,000.

Incidental damages

Incidental damages are awarded for the cost incurred as a result of the breach.

Here, Betty incurred an appraisal fee, an incidental damage as the result of the breach of Sam.

Thus, Betty is entitled to incidental damages of appraisal fee.

In conclusion, Betty will likely succeed and in the alternative of rescission receive expectation damages(\$150,000) and incidental damages(appraisal fee).

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