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Governing Law

A contract that deals with the sales of good is governed by the UCC. Goods are defined as tangible moveable objects defined in the terms of the contract. And other contracts such as good and services are governed by common law.

Here, the terms of the contract is the sale of a vintage violin, a tangible good, Therefore, the contract is bounded by the laws of the UCC.

Contract Formation

A valid contracts requires offer, acceptance, and consideration.

Offer

An offer is a manifestation of intent to bargain with clear and definite terms with an identified offerere.

Here, Sam's manifested a bargain to offer when he called Betty about the Violin. Moreover, the call stated the violin price of \$200,000. Thus the offer was valid.

Acceptance

Acceptance is when the offeree agrees to the terms of the contract provided by the offeror.

Here, Betty accepted the terms of the contract when she

agreed to buy the violin from Sam for the cost of \$200,000. Thus terms of the contract are valid

Merchants

A merchant is a person who regularly deals with a particular good.

Here both parties are merchants in the trade of music instruments. Sam is a well-known-dealer with valuable music instruments, and Betty owns a high-end music store.

Consideration

Consideration is when both parties are burden in exchange for a legal benefit.

Here, consideration is valid because both parties are benefited and burden by the terms of the contract. Sa is burdened by giving away the violin but in exchange receives the benefit of \$200,000 from Betty. And in Contrast, Betty is burden with the lost of \$200,000 and in exchange receives the vintage violin. Thus consideration is valid.

Statute of Frauds

Certain contracts requires the agreement be in writing to comply with the statute of frauds. Agreements include, marriage, performance that take longer than a year to perform, the sale of goods over \$500, and the sale of of property.

Here, the statute of fraud applies because the price of the violin is \$200,000. But, both parties have complied with the statute of frauds requirements. First, the terms of the agreement are in writing. The facts state that S mailed the standard form to B stating an agreement to purchase the violin for \$200,000. Second, both parties signed and dated the contract. Sam signed the contract prior to emailing the form to B, and shortly after, B signed and dated the contract. Because the writing requirements have been satisfied, the agreement has complied with the statute of frauds.

Betty's Argument

Recession

A recession is when a party seeks reformation of a contract to its intended terms. A recession is available as a remedy for contract formation.

Mistake

A contract is void if both parties are mistaken as to a material fact about the contract. And a contract is voidable by the non-mistake party if the other party knew of the mistakes.

Here, both parties made a mutual mistake. The facts state that Sam truly believed that the violin was a Rocca, and if true, Sam made an honest mistake. And Betty's mistake was relying on Sam's word that the violin was a genuine Rocca. And even if, Sam was not honest about the

mistake, then Betty could still void the contract because she was unaware of the mistake.

Because both parties made a mutual mistake about the terms of the contract is void, and thus Betty should seek a recession is appropriate to restore the contract to its intended terms.

Parol Evidence Rules

If a contracts is partially integrated, courts will allow extrinsic evidence to supplement or additional terms so long as those terms do not materially alter terms of the contracts. But if the contract is fully integrated, then courts will not allow additional terms, and only terms to supplement the contract. With that said, even if the contract is fully integrated, extrinsic evidence is permitted to prove ambiguity, fraud, collateral agreements, and proof of prior terms. Moreover, extrinsic evidence is only allowed prior the the agreement being written.

Here, Betty should argue that the merger clause does not apply to the prior phone call. The contract states the sale of the violin for \$200,000. But the prices of violins varies depending on the shape, size, and make. The prior phone call provides context on the type of violin being sold, specifically that the violin to be sold is a vintage Rocca. In short, the merger clause should not prevent the prior phone call from being admitted because the call clears up an ambiguity,

Breach

A breach occurs when, when one party fails to perform their duties stated in the contract. Under the UCC, a seller must conform to the perfect tender rule, where the good must perfectly conform to the terms of the contract without any deviations.

If the courts admit the prior phone call, then Sam would be in breach of the contract. As stated above if the prior contract was integrated, then terms of the contract would be a "Vintage Rocca violin for the purchase price of \$200,000." Here Sam did not provide a vintage Rocca, and by extension breached terms of the contract.

Damages

Under the UCC, when a seller breach, a buyer can reject the good. If the seller does not accept the rejection, then the buyer can sell the good, and seek damages for the remaining price from the buyer.

Here, Betty can return the violin to Sam. But if Sam does not accept, she is entitled to the \$200,000. In the event that she sells the violin and receives a lower value. She can get the difference in contract prices from Sam.

Sam's Argument

Waiver of Merchantability

If both parties are merchants, merchants are able to waive warranties that are express or implied.

As stated before, both Sam and Betty are merchants that regularly deal in specialized instruments. Here, Sam could argue that Betty agreed to waive express and implied warranties by accepting the terms of the agreement. But it's likely that the courts will accept the agreement. When a merchant describes or illustrates a fact about the essential good of the contract, that fact becomes part of the bargaining process and integrates itself into the contract. And Sam explicitly told Betty that the violin was a genuine Rocca. Thus, the warranties were not waived.

Non-Mutual Mistake

If a mistake in about terms of the contract, but both parties could have prevented the mistake from happening, then both parties are required to perform the contract.

Here, both parties are merchants that specialize in musical instrument. Sam could argue that Betty should have known that the violin was not authentic. Betty regularly deals with end instruments, she should have inspected the violin when she had the chance and prevented the mistake from happening.

Conclusion

All in all, Betty will most likely prevail in her suit against Sam, either with rescission or breach because the prior phone call clears up ambiguity and is not barred by the parol evidence rule. Moreover, violin being a vintage

Rocca was part of the bargaining process, and thus could not be waived from the warranties.

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