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Betty v. Sam

Applicable Law

Article 2 of the Uniformed Commercial Code (UCC) governs contracts for the sale of goods. Goods are tangible, moveable objects. The common law governs contracts concerning everything else, including service contracts.

Here, the contract at issue involves a violin, which is a tangible, moveable object as a musical instrument.

Thus, the UCC will apply to this contract deal.

Merchants

The UCC contains special rules for merchants. Merchants are those that typically deal with the type of goods being sold or traded and those who have special knowledge regarding the subject of the contract.

Here, Sam is likely a merchant because he a well-known dealer in valuable musical instruments and he has special knowledge regarding antique violins. Additionally, Betty is likely a merchant because she owns a high-end music store.

Thus, Sam and Betty are both familiar and likely have specialized knowledge regarding the sale of musical instruments and are considered merchants under the UCC.

Contract Formation

A valid contract is formed when there is an offer, acceptance, consideration, and there are no defenses to formation.

Offer

An offer is a manifest intent to deal with an identifiable individual.

Here, Sam made an offer to Betty because he intentionally telephoned Betty to inform her he had an antique Enrico Rocca violin for sale.

Thus, a valid offer was made.

Acceptance

An acceptance is an affirmative

Here, Betty agreed to buy the violin Sam was selling and agreed to the terms in which Sam offered it.

Thus, a valid acceptance was made.

Consideration

Consideration is a bargained for exchange.

Here, Sam offered to sell a violin to Betty for which she agreed to pay Sam $200,000.

Thus, there was a bargained for exchange of money and goods.

Conclusion as to Contract

Sam and Betty memorialized their agreement for the sale/purchase of the violin when Sam completed a standard form sales contract and emailed it to Betty. Betty signed, dated and returned the contract to Sam along with payment indicating that a valid contract was formed.

Thus, there was a valid offer, acceptance, and consideration, and no defenses to formation such that the facts demonstrate that a valid contract exists between Sam and Betty for the sale/purchase of the violin.

Breach of Contract

A breach of contract occurs when one party to the contract fails to perform one of the material elements of the contract.

Here, when Sam breached the contract because he sold Betty a replica violin rather than an authentic Rocca violin as described and selling a particular antique item was the purpose of the contract and is a material element of the contract.

Thus, Sam breached the contract and Betty may have remedies.

Statue of Frauds (SOF)

The SOF requires that certain contracts be in writing, signed by the party to be charged. Specifically, contracts involving the sale of goods of more than $500 are required to be in writing.

Here, the contract for the violin must be in writing because the violin is considered a good and was sold for more than $500. Further, Sam and Betty memorialized their agreement for the sale/purchase of the violin when Sam completed a standard form sales contract and emailed it to Betty. Betty signed, dated and returned the contract to Sam along with payment indicating that a valid contract was formed.

Thus, the statute of frauds has been met.

Perfect Tender Rule

Under the UCC, a merchant is required to tender perfectly conforming goods that conform to the contract terms. If the seller fails to tender perfect goods, the buyer can reject the goods. If the goods are non-conforming, the buyer can reject the goods, within a reasonable amount of time after inspection, and stop their performance of the contract.

Here, Sam told Betty she was buying and he was tendering an antique Enrico Rocca violin. However, upon delivery, Betty sent the violin to an expert appraiser for inspection. A week later,

she was told that the violin was not genuine. Betty will argue that she took the necessary and reasonable steps to have the violin inspected and that upon said inspection, the goods were non-conforming and she should be able to reject the violin.

Thus, the violin Sam sent to Betty was non-conforming and Betty has a right to reject the goods.

Parol Evidence

The parol evidence rule requires contemporaneous and extrinsic evidence be excluded from being used to contradict terms of a contract. Courts will generally consider the contract to be fully integrated and the four corners doctrine limits the agreement to what is in the physical contract.

Betty will argue that Sam represented that the violin was an authentic Rocca in his telephone call with her. Sam will argue that the contract states "violin" and that there was no actual representation that the violin Betty purchased was a Rocca. Sam will further argue that the contract terms indicate "sold as is" and that there were no warranties or representations that the violin was a Rocca.

Based on the trade and fair market value of violins, the Court would likely find that $200,000 for a replica was unreasonable and that Betty likely was told that the violin was a Rocca and that is why she agreed to pay $200,000 vs. $5,000. Because the contract terms indicate "violin" and do not specify the kind or type, the court is likely to admit evidence that Sam told Betty that the violin was a Rocca.

Thus, the court is likely to admit parol evidence as to the quality of the violin.

Misrepresentation/Fraud

There is a misrepresentation or fraud when an item for sale is alleged to be something it isn't.

Here, when Sam telephoned Betty regrading the sale of the violin, he indicated that the violin was made by Enrico Rocca in the early nineteenth century. Betty purchased the violin and agreed to the price of $200,000 based on that representation. However, Betty later had the violin inspected and it was determined that the violin was a replica - not an original as Sam had led her to believe.

Betty will argue that Sam knowingly misrepresented that the violin was a Rocca to induce her to purchase the violin for $200,000. Betty will further argue that this misrepresentation of authenticity substantially frustrates the purpose of the contract because she would not have paid $200,000 for a replica.

Sam will argue that he sincerely believed the violin to be a genuine Rocca because he was "flabbergasted" when Betty told him about the results of the laboratory test. Sam will argue that he did not intentionally misrepresent the authenticity of the violin or fraudulently induce Betty's purchase of violin.

A court will likely find that Sam's conduct following Betty's notification, including pointing her back to the written contract, demonstrates a lack of sincerity. Thus, the court is likely to find that Sam misrepresented to Betty that the violin was a true Rocca.

Thus, the Court may find that the parties were mutually mistaken as to the authenticity or that Sam misrepresented the violin to Betty, resulting in a breach.

Mutual Mistake

A mutual mistake occurs when both parties to a contract are mistaken about a material term.

Here, Sam and Betty were both of the impression that the violin was a genuine Rocca. However, following the inspection, it was determined that the violin was a replica. Therefore, the character of violin substantially changes the purpose of the contract based on the mistaken belief of it's true authenticity.

Thus, the court may find that there was a mutual mistake.

Frustration of Purpose

There is a frustration of purpose when an agreement to contract is materially hindered and the entire purpose of the contract is non existent.

Here, the contract was for a Rocca violin. When Sam sold Betty a replica, the purpose of the contract was frustrated.

Thus, the contract may be rescinded.

Contract Rescission

Rescission is an available remedy when the contract is cannot be performed as intended due to a breach or other impracticality.

Here, Betty is likely to seek a rescission of the contract because Sam breached when he delivered a replica violin and not a true Rocca violin. By rescinding the contract, it would relieve Betty and Sam from performing and would put them both back in the position they were in before the contract was formed.

Thus, if the court is to determine that the contract should be rescinded, Betty would need to return to the violin to Sam and Sam would need to return the $200,000 to Betty.

Restitution Damages

Restitution damages are available to put a party to a contract back to the position they were in had the contract not been performed.

Here, Betty paid Sam for $200,000 for the violin. However, upon inspection, the true value of the violin was determined to be $5,000. Therefore, if the contract was not rescinded, Betty should be entitled to seek restitution damages in the amount of $195,000.

Conclusion

Based on the above, it is highly likely that Betty will prevail in her claim against Sam by way of contract rescission.

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