

QUESTION 2

Steve agreed to convey his condominium to Betty for \$200,000 in a written contract signed by both parties. During negotiations, Steve told Betty that, although there was no deeded parking along with the unit, he was allowed to park his car on an adjacent lot for \$50 a month. Steve stated that he had no reason to believe that Betty would not be able to continue that arrangement. Parking was important to Betty because the condominium was located in a congested urban area.

On June 1, the conveyance took place: Betty paid Steve \$200,000, Steve deeded the condominium to Betty, and Betty moved. She immediately had the entire unit painted, replaced some windows, and added a deck. The improvements cost \$20,000 in all. She also spent \$2,000 to remove the only bathtub in the condominium and to replace it with a shower, leaving the condominium with two showers and no bathtub.

On August 1, Betty discovered that the owner of the adjacent parking lot was about to construct an office building on it and was going to discontinue renting parking spaces. She also learned that Steve had known about these plans before the sale. She quickly investigated other options and discovered that she could rent parking a block away for \$100 a month. At the same time, she also found that, immediately before Steve had bought the condominium, the previous owner had been murdered on the premises. Steve had failed to tell Betty about the incident.

Betty has tried to sell the condominium but has been unable to obtain offers of more than \$160,000, partly due to the disclosure of the murder and the lack of a parking space. Betty has sued Steve for fraud.

What is the likely outcome of Betty's lawsuit and what remedies can she reasonably seek? Discuss.

2) Please type the answer to Question 2 below.**Â**

When finished with this question, click to advance to the next question.
(Essay)

Fraud

In a tortious claim of fraud, the plaintiff must demonstrate that they suffered an injury by materially relying on the defendant's intentional misrepresentation.

Although B will be able to show that S misrepresented the parking situation, she will unlikely be able to convince the court she materially relied on that particular representation to purchase the condo.

Intentional Misrepresentation

In order to establish that S had the necessary state of mind to perpetrate fraud upon B, S must show that B intended to make S believe a factually false claim at the time of the statement or omission.

S would not make any such representation in the deed, but he told B he "had no reason to believe [B] would not be able to continue" parking at the neighboring lot for \$50/month as he presently was. In fact, B can now show that S knew about plans to eliminate the lot.

As to the previous owner's murder, S did not apparently make any such representation. B can argue that in executing a warranty deed and breaching his duty to disclose the murder, S intended to misrepresent the value of the condo. While omission is one means of intentionally misrepresentation, there is no apparent covenant that contradicts the murder. S did not express a warranty in the deed.

Material Reliance

S must also show that she materially relied on B's intentional misrepresentation in obtaining the injury.

Although parking was important to B, it was apparently not so important that she did not require S to include a covenant in the deed. She did not indicate that she would refuse to purchase the condo in the event that the neighboring lot shut down. The value of the parking was \$50/month, compared to the \$200,000 she spent on the whole condo. In any event, she found alternative parking for \$100/month.

On the other hand, she will much more likely be able to show that she would not have purchased the condo if not for the disclosure of the prior owner's murder, at least not at the asking price. After learning about the murder, she has tried to dispose of the condo, clearly demonstrating that she would never have purchased it had it been disclosed. In failing to disclaim any warran

Warranty Deed

Duty to Disclose

Remedies

Damages

Equitable Relief

Since B's only cause of action is fraud, B will not be able to seek any type of equitable relief against S.

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