

LAW OF CONTRACT QUESTION PACK

EXAM 1:

Question 1:

X, an organizer of art exhibitions, contracted with Y for an exhibition to be held on 24 to 27 July. These dates were the only dates mentioned during the negotiations. After having being pressurized by X, Y hurriedly signed the standard form contract without reading it. The contract contained a clause permitting X to change the dates of the exhibition unilaterally. Therefore X changes the dates. X had no reason to believe that Y would have signed the contract if he had known of the term. Y averred that the contract was void, because of this mistake.

1.1.1 Is Y's mistake material? Substantiate your answer in one sentence. (1)

Answer and discussion:

Yes. The mistake relates to the terms of the contract (legal consequences) (1)

The mistake is material. Y did not read the contract and did not know that it contained a term that allowed X to change the dates. See study guide 1 (50-53)

1.1.2 Will Y succeed in his attempt to have the contract set aside? Substantiate your answer briefly. (3)

Answer and discussion:

Yes. In this problem we have a contract signed by both parties, and this is an apparent contract. When answering this question you may thus use either the direct reliance of the iustus error approach.

Direct reliance approach: Y, a party to the contract, misrepresents his actual intention by signing the contract. (1) X was misled by Y's misrepresentation. (1) A reasonable man would have realized that Y, certain dates having being mentioned during the negotiations would not have expected a clause permitting X to unilaterally change these dates. (1) X's reliance is therefore not reasonable, and there is no contract.

OR

Iustus error approach: X made an innocent misrepresentation that there was no term allowing X to unilaterally change the dates, and this misrepresentation caused Y's mistake. (1) This is an example of misrepresentation by way of omission. There was a duty on X to direct

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Roseanne Russell



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