

Problems

1. The Farringtons entered into a signed agreement to sell their real estate to the Tucsons. The price was stated in the agreement as follows: "Sum of fifty thousand dollars (\$50,000). Approximately one-third down, the balance to be paid over a period of 10 years at 7% interest. This option to expire in 30 days. One hundred dollars (\$100.00) to be paid at time of agreement with said amount to be applied on purchase price." Is this an enforceable agreement? Why or why not?
2. Nellie sold a small hotel to George. During the contract negotiations preceding the sale, Nellie told George that the hotel earned \$2,000 a month. Following the sale, George learned that although this figure was accurate, most of the income resulted from the operation of the hotel as a brothel. Does Nellie's statement about hotel income constitute misrepresentation? Why or why not?
3. Bert orally promised Ernie that if Ernie quit his job to care for Bert, who was elderly and ill, Ernie would receive Bert's real estate at Bert's death. Ernie quit his job and cared for Bert until Bert died two years later. No will or deed was found. Assuming that Ernie lived on the property before Bert's death, is Ernie entitled to Bert's real estate? Why or why not?
4. The Lowerys owned a farm consisting of 365 acres. They arranged to sell the farm by public auction; bids were to be given orally. The sale was to be for cash with a 10 percent down payment due at the auction and the balance due upon transfer of the deed. Couture was the highest bidder at the auction. Since the auction was on a Saturday, Couture orally sought and was granted permission by the Lowerys to deliver the down payment on Monday after his bank opened. On Monday, Couture presented the Lowerys with the down payment; but they refused to accept it. Can Couture enforce their agreement? Why or why not?
5. Schaeffler hired Newcomb to build a house and promised to pay Newcomb the cost of materials and an agreed profit. Schaeffler was to provide Newcomb with the drawings and specifications to erect the residence. Work began in July and continued until September, when Newcomb reported to Schaeffler that cracks had developed in the foundation and walls of the structure. The damage was partially due to a soil defect and partially due to Newcomb's deviation from specifications that had been submitted to him. Schaeffler personally paid to correct the soil condition and sought recovery of his cost from Newcomb. Newcomb claims that he substantially performed the contract and that Schaeffler owes him the balance of his profit due on the job. Decide.
6. Hartley purchased a new house from Ballou, the builder. Hartley inspected and obtained possession of the house shortly after the closing. On several occasions, the basement of Hartley's new home flooded after a rainstorm. Hartley informed Ballou of the problem; and Ballou attempted to rectify the problem, but to no avail. Hartley sued Ballou for breach of the implied warranty that the house was fit and suitable for its intended purpose as a residence. What defenses should Ballou assert? Who will win? Why?
7. Bassford, who was seeking a home in the Denver area, was shown a new house owned by Cook. While inspecting the house, Bassford observed substantial cracks in the interior walls. Cook informed Bassford that an engineer had determined that the cracks were the result of the settling of the house. Cook stated that corrective action was being taken and informed Bassford that minor soil conditions required keeping water

away from the foundation. Assuming that Cook is telling Bassford all of the facts (as far as he knows) about the house's condition, can Bassford still rescind the contract? Why or why not?

8. Johnson purchased a house and lot from Lina. During negotiations for the sale, Lina represented the lot width to be 60 feet when, in fact, it was only 50 feet. There were no physical boundaries that made the lot's width easily discernible by the naked eye. Johnson, upon discovery of the true width of the lot, promptly brought action for rescission of the sale on the ground of misrepresentation. Will he win? Why or why not?
9. Able decided to sell his hotel. Able told Baker, a potential purchaser, that the hotel was in "A-1 condition." In fact, unknown to Able or Baker, the walls of the hotel were structurally defective and ready to collapse. Baker relied on Able's statement and bought the hotel. When Baker learned of the defective walls, she sued to rescind the sale. Able claimed that his statement was innocently made and therefore Baker is not entitled to rescission. Who is correct? Why?
10. Goodman owned property worth \$100,000. Unaware of its value, Goodman sold it for cash to Alvarez for \$30,000. If Goodman's property was in Mississippi, it would be governed by the common law. The common law does not second-

guess the adequacy of the consideration paid for land, so the sale would be final. However, if the property was located in neighboring Louisiana, which uses the civil law legal system, Goodman would be allowed to rescind the sale under a civil law doctrine called "lesion beyond moiety." Lesion beyond moiety allows the seller to rescind a sale of land (the doctrine does not apply to personal property) if the land was sold for less than one-half its value. The right must be exercised within four years of the sale. Still, Goodman would have to reimburse the buyer, Alvarez, for any improvements Alvarez may have made to the land.

Which doctrine is more ethical? Should the onus be placed on a buyer to determine the land's value and pay more than one-half to avoid harming the seller? Goodman also could assert the right if Alvarez sold the land to another party. What effect could that action have on titles and the merchantability of land? On the other hand, should there be laws, like the doctrine of lesion beyond moiety, to protect an unsophisticated buyer from a bad deal? Should the government promote efficiency and finality to the sale of real estate, or should it protect people like Goodman from themselves? Explain your answers.