

QUESTION 7 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III

Janet bought a house and its accompanying llama farm in picturesque Caravaggio City, Michigan, in 2005. Janet immediately undertook renovations of the house: she repainted every room, updated all of the appliances, and installed an expensive Tiffany chandelier in the main foyer that befit the house's character and style. Further, Janet assembled and installed a large mechanical loom in a backroom of the house, using the loom to weave llama fleece into yarn, which she then sold.

In 2012, David approached Janet with an offer to purchase the house and farm, stating that it was his life-long dream to work with llamas. Janet agreed to the sale and delivered to David a warranty deed of the real estate in the usual form. When David moved into the house the day after closing, he discovered that Janet had removed the Tiffany chandelier from the foyer and the mechanical loom from the backroom. Both of these items had been in the home on the day that the contract of sale was signed. David and Janet had never discussed whether these items would come with the property, and the contract of sale and deed simply described the real estate to be sold and were silent with regard to whether any items came with the house. Nevertheless, David had assumed that these items would remain with the house and thus he decided to pursue legal action against Janet to recover the items.

In the meantime, David took out two loans. First, David took out a loan with Local Bank so that he could make structural improvements to the house. David used his home as collateral for the loan and granted a mortgage to Local Bank. Two weeks later, David took out a small business loan from National Bank in order to make improvements to the farm. David again used his home as collateral and granted a mortgage to National Bank; when National Bank completed a title search, it confirmed that there were no other encumbrances on the property. National Bank promptly and properly recorded its mortgage. A week later, Local Bank properly recorded its mortgage.

Unfortunately, David was not adept at raising llamas, his business floundered, and he soon found that he could no longer make payments on either mortgage.

Applying Michigan law, first assess whether David could properly recover from Janet: (a) the Tiffany chandelier, and (b) the loom. Then, if an action for foreclosure on the home is brought by either Local Bank or National Bank because of David's default on his mortgage obligations, assess the priority of the competing interests in the home.

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