

A developer owned 250 lots in a new residential development. A builder of single-family homes approached the developer with a signed, written offer "to purchase a block of lots for a reasonable price to be determined by the market." Prior to that, three other residential construction companies had each purchased blocks of 50 lots from the developer for between \$75,000 and \$90,000 per lot, depending on lot size and location. The developer signed the builder's offer upon receiving it. A week later, the developer notified the builder that the developer had sold the remaining 100 lots to another builder.

If the builder sues the developer for breach of contract, will the builder be likely to prevail?

- A. No, because all essential terms must be specified in the contract for the contract to be valid.
- B. No, because the contract is voidable by the developer since the actual market price was not stated in the agreement.
- C. Yes, because the court can use the other construction companies' purchases to "fill the gap" for the missing quantity and price terms.
- D. Yes, because the parol evidence rule does not bar extrinsic evidence of the reasonable market price.

Explanation:

Essential contract terms*

Parties

Subject matter (eg, description of goods or services)

Price or other consideration

Quantity

Duration of contract

Time for each party's performance

*Necessarily varies by contract.

At common law, all **essential terms** must be covered in a contract for it to be valid and enforceable. Those terms must be sufficiently **certain and definite** for the court to determine the existence of a breach and give an appropriate remedy. Otherwise, the contract fails for indefiniteness.*

One essential term is the **subject matter** of the agreement—eg, a **description of the property** to be sold in a land-sales contract. A property description is sufficiently certain and definite if it enables the court to **determine exactly what property is being sold**. Here, the description ("block of lots") is too indefinite to make such a determination. As a result, the builder is unlikely to prevail.

*Indefiniteness may be cured by surrounding circumstances or conduct by the parties that permits the court to supply the term. But here, there are no such circumstances or acts by the parties to identify exactly which lots were to be sold.

(Choice B) Although the actual market price was not stated in the agreement, "reasonable market price" is a sufficiently certain and definite price term since market value can be determined objectively. Also, had this essential term been missing or otherwise insufficient, the contract would have been **void**—not voidable.

(Choice C) The Uniform Commercial Code (UCC) encourages contract formation by "**filling the gap**" for many missing terms—including price but not quantity. Additionally, land-sales contracts are governed by common law—not the UCC, which governs contracts for the sale of goods.

(Choice D) The parol evidence rule generally bars extrinsic evidence of prior or contemporaneous agreements to modify or contradict the terms of a final written agreement. However, evidence of the reasonable market price is not barred by this rule.

Educational objective:

At common law, all essential terms must be covered in an agreement, and those terms must be sufficiently certain and definite. The property description in a land-sales contract meets this standard if it allows the court to determine the exact property being sold.

References

17A Am. Jur. 2d Contracts § 180 (2020) (requisites for definiteness and certainty of contract terms).

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