

A homeowner contracted in writing with a kitchen contractor to renovate her kitchen for \$25,000, "subject to the homeowner's complete personal satisfaction." The contractor replaced the cabinets, flooring, and countertops and then sought payment from the homeowner. The homeowner paid the contractor only \$20,000, truthfully saying that she did not like the finish on the cabinets and was therefore not satisfied.

If the contractor sues the homeowner for the balance of the contract price, will the contractor be likely to prevail?

- A. No, because a condition to the homeowner's obligation to pay was not satisfied.
- B. No, because the contractor breached his duty of good faith and fair dealing by supplying unsatisfactory materials.
- C. Yes, because the homeowner breached the covenant of good faith and fair dealing by rejecting the cabinets without justification.
- D. Yes, because the homeowner was the first party to breach the contract.

Explanation:

Meeting condition of satisfaction

Objective standard Whether *reasonable person* would be satisfied with performance

(default)

Subjective standard Whether promisor is *personally* satisfied with performance (provided that dissatisfaction is honest & in good faith)

(aesthetics)

Many contracts include a **condition precedent** that a party's duty to pay will not become due unless the party is satisfied with the other party's performance (ie, condition of satisfaction). **Satisfaction** is typically measured objectively, meaning that the condition is met if a reasonable person would be satisfied. But if **aesthetic taste is involved**, satisfaction is **measured subjectively**. In that case, the condition is met only if the promisor is **personally satisfied**, provided that any **dissatisfaction** is **honest** and in **good faith**.

Here, the homeowner's duty to pay for the kitchen renovation was subject to her "complete *personal* satisfaction." This condition of satisfaction was not met because the homeowner was *honestly* dissatisfied with the cabinets' finish. As a result, the homeowner was not obligated to make the promised payment, and the contractor likely will not prevail in a suit to recover the balance of the contract price **(Choices C & D)**.

(Choice B) There is no indication that the materials supplied by the contractor were unsatisfactory. And even if they were, using unsatisfactory materials is not a breach of the covenant of good faith and fair dealing.

Educational objective:

When a contract conditions a duty to pay on satisfaction with another party's performance, satisfaction is measured objectively. But when the condition involves a party's aesthetic taste, the condition is only met if that party is *personally* satisfied with the other party's performance, provided that any dissatisfaction is honest and in good faith.

References

Restatement (Second) of Contracts § 228 (Am. Law Inst. 1981) (party's satisfaction as a condition).

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