A customer pledged a stock certificate to a bank as security for a loan. Under its loan agreement with the customer, the bank was obligated to return the certificate once the loan was repaid. A year later, when the customer fully repaid the loan, the bank refused the customer's demand to return the certificate because the officer dealing with the loan had the mistaken belief that there was still a balance due. No one at the bank reviewed the records until two months later, at which time the error was discovered. The bank then offered to return the certificate, but the customer refused to accept it. At the time the customer pledged the certificate, the shares were worth $10,000; at the time the customer repaid the loan, the shares were worth $20,000; and at the time the bank offered to return the certificate, the shares were worth $5,000.

If the customer brings an action against the bank based on conversion, how much, if anything, should the customer recover?

A. Nothing, because the bank lawfully came into possession of the certificate.

B. $5,000, because that was the value of the shares when the customer refused to accept the certificate back.

C. $10,000, because that was the value of the shares when the bank came into possession of the certificate.

D. $20,000, because that was the value of the shares when the customer was entitled to the return of the certificate.

Explanation:

Conversion (an intentional and substantial interference with another's right to control a chattel) occurs when a defendant **refuses to return** a chattel upon demand to a plaintiff who is entitled to its **immediate possession**. In the event of a conversion, the plaintiff can recover the **fair market value** of the chattel **at the time of the conversion**.

Here, conversion occurred when the bank refused to return the customer's stock certificate even though the customer had fully repaid the loan and was entitled to immediate possession of the certificate pursuant to the loan agreement. Accordingly, the customer should recover the fair market value of the shares when the bank refused to return the certificate in response to the customer's rightful demand (the time of conversion)—$20,000.

(Choice A) A defendant who refuses to return the plaintiff's chattel may be liable for conversion even if the defendant initially acquired the chattel lawfully. Therefore, though the bank lawfully obtained the stock certificate as security for the customer's loan, it committed conversion by refusing to return the certificate when the customer was entitled to immediate possession.

(Choices B & C) The customer should recover the fair market value of the certificate *at the time of the conversion*—not when the bank first came into possession of the certificate or when the customer refused to accept it back two months later.

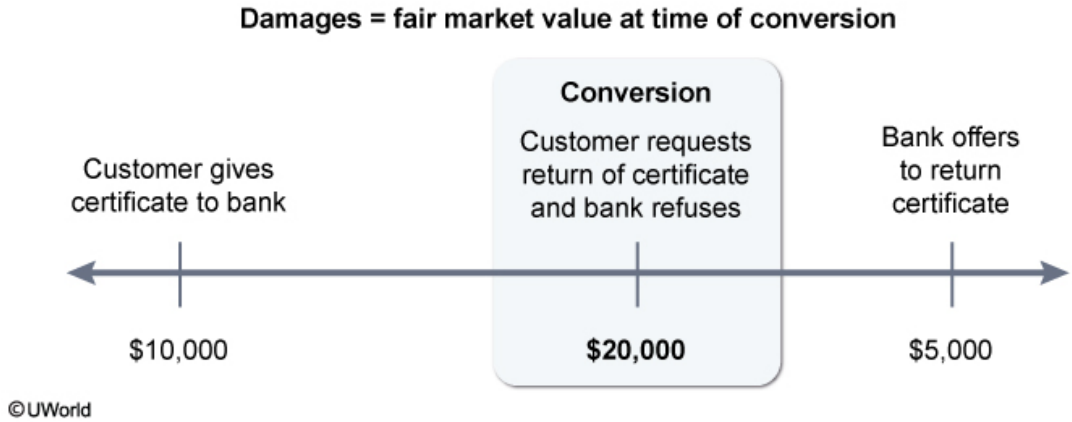
Educational objective:

Conversion occurs when a defendant refuses to return a chattel upon demand to a plaintiff entitled to its immediate possession, after which the plaintiff can recover the fair market value of the chattel at the time of the conversion.

References

Restatement (Second) of Torts § 222A (Am. Law Inst. 1965) (definition of conversion).

Restatement (Second) of Torts § 237 (Am. Law Inst. 1965) (conversion by demand and refusal).


Damages = fair market value at time of conversion
Conversion
Customer gives certificate to bank
Customer requests return of certificate and bank refuses
Bank offers to return certificate
$10,000
$20,000
$5,000
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