

A buyer, who was a minor both in fact and appearance, bought on credit and took delivery of a telescope from a 30-year-old seller for an agreed price of \$100. Soon after reaching the age of majority, the buyer encountered the seller and said, "I am sorry for not having paid you that \$100 for the telescope when the money was due, but I found out it was only worth \$75. So I now promise to pay you \$75." The buyer subsequently repudiated her promise and refused to pay the seller anything.

In an action for breach of contract by the seller against the buyer, what amount of damages will the seller likely recover?

- A. Nothing, because the buyer was a minor at the time of the original transaction.
- B. Nothing, because there was no consideration for the promise made by the buyer after reaching majority.
- C. \$75.
- D. \$100.

Explanation:

An unmarried, unemancipated **minor** (ie, person under the age of 18) **lacks capacity** to enter a contract. This means that any **contract** the minor enters is **voidable**, so the minor can either:

- **void** the contract before or soon after turning 18 by (1) disaffirming it through words or actions and (2) returning any still-existing benefit received under it *or*
- **ratify** the contract after turning 18 by (1) failing to timely void the contract or (2) agreeing to be bound by it.

The contract becomes enforceable if the **minor ratifies** it. However, if the ratification is made by a **promise to perform only part** of the contract, **enforcement is limited** to that promise to **partially perform**.

Here, the buyer was a minor when she originally agreed to purchase a telescope from the seller for \$100. Although the buyer had not paid the \$100 when she reached the age of majority, she *ratified* the contract by retaining the telescope and promising to perform part of the contract by paying only \$75. This made the contract enforceable—but only to the extent of the promise for partial performance. Therefore, the seller likely will only recover \$75 (**Choices A & D**).

(Choice B) Certain **promises** are enforceable even without consideration. This includes a party's promise to perform a voidable duty (ie, ratification), so long as the new promise is not also voidable. Therefore, the buyer's promise to pay \$75 made after reaching majority is enforceable without consideration.

Educational objective:

A minor lacks capacity to contract, so the minor can choose to (1) void the contract before or soon after turning 18 or (2) ratify it after turning 18. If the contract is ratified by a promise to perform only *part* of the contract, enforcement is limited to that promise to partially perform.

References

- Restatement (Second) of Contracts § 14 (Am. Law Inst. 1981) (incapacity based on infancy).

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Incapacity due to infancy

