

A woman, domiciled in State A, entered into a contract with an art dealer, domiciled in State B, to purchase several pieces of artwork for the woman's office in State C. The parties negotiated and signed the contract in State C. The contract required the dealer to deliver the artwork to the woman's office on a specified date. The woman paid the dealer the contract price. When the specified date arrived, the dealer refused to deliver the artwork because he wanted to keep the pieces for himself. He also refused to return the woman's money. The dealer stored the artwork in a warehouse he owned in State A and returned home.

The woman sued the dealer in a federal district court in State A, seeking a declaratory judgment that she lawfully owns the artwork. The dealer filed an answer and asserted a motion to dismiss for lack of personal jurisdiction.

Should the court grant the dealer's motion?

- A. No, because the artwork is located in State A.
- B. No, because the dealer waived this defense by failing to assert it in a pre-answer motion.
- C. Yes, because the contract was negotiated, signed, and allegedly breached in State C.
- D. Yes, because the dealer is domiciled in State B.

Explanation:

Personal jurisdiction is a court's authority over the parties or property before it. The exercise of personal jurisdiction over all actions—in rem, quasi in rem, and in personam—must comport with **due process**. This occurs when the plaintiff's claim arises from the defendant's minimum contacts with the forum state and the exercise of jurisdiction complies with notions of fair play and substantial justice.

A **quasi in rem type 1 action** is brought directly against an individual to determine the named parties' interests in property located in the forum state. This includes a request for a declaratory judgment that the plaintiff, not the defendant, owns personal property in the forum state. These actions typically comport with due process because:

- **minimum contacts** almost always exist since the **action relates to** the defendant's interest in **property in the forum state*** (eg, the artwork in State A) *and*
- exercising jurisdiction complies with **fair play and substantial justice** so long as the plaintiff did **not fraudulently bring** the property **into the forum state**.

As a result, due process is satisfied in this case and the court has jurisdiction over the dealer. The dealer's motion to dismiss should therefore be denied.

*Minimum contacts almost always exist for in rem actions as well. These actions are brought directly against property to determine all persons' interests in that property (eg, condemnation).

(Choice B) A challenge to personal jurisdiction is **waived** if it is not asserted in a pre-answer motion or answer, whichever occurs first. Here, the dealer preserved this defense by asserting it in his answer since no pre-answer motion had been filed.

(Choices C & D) Personal jurisdiction over a defendant can exist in multiple jurisdictions. Although personal jurisdiction over the dealer likely exists in State C (where the contract was negotiated, signed, and breached) and State B (where the dealer is domiciled), personal jurisdiction in State A is still valid.

Educational objective:

In a quasi in rem type 1 action, minimum contacts almost always exist because the action relates to the defendant's interest in property in the forum state. And the exercise of personal jurisdiction complies with fair play and substantial justice so long as the plaintiff did not fraudulently bring the property into the forum state.

References

- *Shaffer v. Heitner*, 433 U.S. 186, 207–08 (1977) (stating that a court generally has personal jurisdiction when property in the forum state is the source of the underlying controversy between the plaintiff and the defendant).

- Restatement (Second) of Judgments §§ 5–6 (Am. Law Inst. 1982) (explaining in personam, in rem, and quasi in rem actions).

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Types of action for personal jurisdiction

