

A husband and wife and their four children lived on a farm that the wife had inherited from her father. On numerous occasions, the wife's brother had offered to buy the farm from her, but she had always refused.

The husband died suddenly in an accident. The day after the husband's funeral, the brother and his attorney visited the wife at the farm. The brother again told the wife that he wanted to buy the farm and told her that she would need the proceeds of the sale to support her children. The brother also said that his attorney had drafted an offer to purchase the farm and that the wife needed to sign it right away. The attorney confirmed the need to accept quickly. The wife reluctantly signed the offer and sold the farm to the brother for its fair market value.

A few days after the sale, the wife learned that her husband had a life insurance policy that would provide her with a substantial payout and that she had not needed to sell the farm to support her children.

What would be the wife's strongest argument for rescinding the contract?

- A. Duress. (17%)
- B. Mistake. (3%)
- C. Unconscionability. (7%)
- D. Undue influence. (71%)

Correct

71% Answered correctly

52 secs Time Spent

2023 Version

Explanation:

A contract induced by **undue influence** is **voidable** by the assenting party. Undue influence arises when a party assents to a contract due to **unfair or excessive persuasion** by **someone who dominates** or holds a **special relationship** of trust and confidence **with the assenting party**. Persuasion is unfair or excessive if it seriously impairs the assenting party's ability to exercise free and competent judgment. The following factors are often considered in making this determination:

- unfairness** of the resulting bargain
- unavailability** of independent advice
- susceptibility** of the assenting party

Here, the wife's brother bought her farm for fair market value (fair bargain). However, the brother held a special relationship of trust with the wife based on their family relationship. Additionally, the wife did not have an attorney present when the brother and his attorney told her that she needed to sign the agreement (no independent advice). And the brother and his attorney visited the wife the day after her husband's funeral (susceptibility). Therefore, the wife's strongest argument for rescinding the contract is undue influence.*

*Had the undue influence come from a third party, the wife still could have avoided the contract unless the brother (1) did not know of the undue influence and (2) had given value or relied on the contract in good faith.

(Choice A) Duress renders a contract voidable if a party's assent was induced by force or an **improper threat** that left the party with no reasonable alternative but to succumb (not seen here).

(Choice B) A mistake is a belief not in accord with the facts (eg, had the wife not owned the farm) that makes a contract voidable if it concerns a basic assumption on which the contract was made. However, there is no indication that either party made a mistake here.

(Choice C) A contract is unconscionable when it is so unfair to one party that no reasonable person in the party's position would have agreed to it. Here, a reasonable person could have agreed to sell the farm for fair market value, so unconscionability is not the wife's strongest argument.

Educational objective:

A contract is voidable for undue influence when assent stems from unfair or excessive persuasion by someone who dominates or holds a special relationship of trust and confidence with the assenting party.

References

Restatement (Second) of Contracts § 177 (Am. Law Inst. 1981) (undue influence).

Undue Influence

Domination



Power over
victim



Victim's singular
dependence

Special relationship of trust and confidence



Family



Caregiver



Fiduciary