

English Law of Contract (JUR1260/5260)

Exam 23rd May 2008

Exam question

Please answer both of the following questions. Each of the questions will be given equal weight in the marking of the answers.

1. Speedy Gonzales is a real estate agent who specializes in selling luxury mansions, located in rural areas in England, to rich people living in other countries. Big Olav is a Norwegian businessman based in Bergen, who wishes to purchase a particular mansion that he sees advertised for sale on Speedy Gonzales' website. Big Olav plans to retire in England and, accordingly, wishes to live in the mansion when he retires. The mansion, called "Balmy Beauty", is described on Gonzales' website as a "superb investment opportunity, located in a quiet rural paradise with beautiful views over prime pasture". The website also states that the asking price for the mansion is £300,000. Big Olav telephones Speedy Gonzales and says "I am considering buying Balmy Beauty for the price indicated". Big Olav also tells Gonzales that he wants to live in the mansion when he retires, and adds that "peace and tranquility will be important for me in my retirement". In fact, the person who owns the farmland next to the property on which Balmy Beauty is located, has recently applied to the municipal council for permission to have the farmland developed into an entertainment centre similar to Disneyland. Speedy Gonzales knows of these development plans but does not inform Big Olav about them. Speedy Gonzales also knows that, independent of the development plans, the price of the mansion is already significantly higher than current market prices for housing in the area – but again, he does not tell Big Olav this. Speedy Gonzales merely says to Big Olav: "There are many people who are interested in this particular mansion. Send me quickly confirmation of your offer by fax, pay a deposit of 10 percent of the purchase price to my bank account, and we have a deal". After the telephone conversation ends, Big Olav immediately sends a fax stating "I refer to our telephone conversation of earlier today and I confirm my offer to purchase Balmy Beauty for the asking price. A deposit of 10 percent will be paid as agreed". Big Olav then instructs his accountant to pay the deposit. A week after the deposit is paid, Big Olav gains knowledge of the development plans. He then rings Speedy Gonzales to say that the deal is off and that he wants his deposit back. Speedy Gonzales replies that Big Olav is contractually bound to complete the purchase. Gonzales also states that he will not permit Big Olav to withdraw from the deal.

Advise Big Olav as to whether there is a valid contract under English law between himself and Speedy Gonzales for the purchase/sale of Balmy Beauty. Assuming that there is such a contract, consider briefly any legal remedies that Big Olav might have in order to avoid or lessen his problems.

2. Critically discuss the following claim: "English contract law would be much improved if the courts abolished the artificial doctrine of consideration and used instead the requirement of intention to create legal relations as the principal criterion for enforcing an agreement."

