

Contracts II
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Sample Exam Question #4

On March 1, 2003, Whit and Suzy Sample placed a “For Sale” sign in the front yard of the house in Paradise that they bought two years earlier from its builder, Thomas Homes. The very same day, the Burgers, who were on a house hunting trip from Tennessee where they were then living, saw the “For Sale” sign and offered the Samples \$150,000 for the house, which the Samples accepted. No realtor represented either party. The Burgers and the Samples sat down in the living room and prepared a contract by copying paragraphs from a standard-form real estate contract that Suzy borrowed from the local library, making certain changes and additions agreed to by both the Samples and the Burgers. The contract that the Burgers and the Samples signed contains the following language:

1. Hamilton (“Ham”) and Patty Burger (collectively “Buyers”) agree to purchase from Whitman (“Whit”) and Suzy Sample (collectively “Sellers”), and Sellers agree to sell to Buyers, all right and title to Sellers’ house and real property located at 425 Mesquite Lane, Paradise City, Paradise, for the purchase price of \$150,000, to be paid by Buyers to Sellers on May 31, 2003 (the “closing date”), at which time Sellers will convey to Buyers an unencumbered deed and clear title to said house and real property.

....

8. Sellers agree to transfer the following personal property to Buyers along with the house: (1) all window treatments; (2) all appliances, including the oven, stove, refrigerator/freezer, and dishwasher; (3) the furniture in the upstairs game room; and (4) all lawn and patio furniture.

....

16. Sellers make no warranty, other than those required by law, about the condition of the house. Buyers agree to assume responsibility for any defects not discovered by Buyers prior to the closing date. Sellers agree to make the house available for one or more inspection(s), arranged and paid for by Buyers, prior to the closing date.

....

20. This contract constitutes the entire agreement between the Buyers and the Sellers with respect to the purchase and sale of the aforementioned house and related real and personal property, and the parties hereby agree that any prior drafts of, or discussions relating to, this contract will have no legal effect.

Notwithstanding paragraph 20, the Burgers claim the Samples agreed to make the Burgers' obligation to complete the purchase conditional on Ham's mother selling her house in Tennessee. (His mother was then to move into Ham and Patty's old home in Tennessee and assume the mortgage payments on it.) When asked, the Samples say they never agreed to such a condition. When the Burgers moved into the house on May 1st, Patty noticed that the Samples had taken the eight exterior solar window screens that Whit had told Patty he had custom-made for the house, as well as the washer and dryer that Suzy told Patty were only a few months old.

- A. Based solely on the portions of the contract reproduced above, to what extent does this written contract appear on its face to be integrated? Please explain.
- B. Assuming, for present purposes, that the Samples agreed to make the Burgers' obligation to purchase the Samples' house contingent on Mrs. Burger selling her house in Tennessee, should the trial judge permit the Burgers to testify about that condition? Please explain.
- C. Assuming that the Samples and the Burgers formed an enforceable contract, did that contract obligate the Samples to convey the washer and dryer to the Burgers with the house? Please explain.
- D. Assuming that the Samples and the Burgers formed an enforceable contract, did that contract obligate the Samples to convey the custom-made solar screens to the Burgers with the house? Please explain.
- E. Suppose that, at all relevant times up to and including when the parties executed their written agreement, the Samples had no awnings, blinds, curtains, drapes, shades, UV film, valences, or other interior or exterior window treatments except the custom-made exterior solar screens. How might that fact aid the Burgers in convincing the court to resolve any ambiguity regarding the solar screens against the Samples? Please explain.
- F. Suppose, instead, that the Samples drafted the entire written agreement, and the Burgers simply read and signed the agreement the Samples provided. How might that fact aid the Burgers in convincing the court to resolve any ambiguity regarding the solar screens against the Samples? Please explain.