DURESS AND ILLEGALITY

1) "Give me $1000 or I'll kill you." He pays. What is the victim's civil cause of action? What remedy? See Ark. Code Ann. § 5-2-208.

2) "Sign this promissory note or your brother will go to jail." When sued on the note, what is the defense of the promissor?

3) Landlord to tenant: "You owe two months' rent. Pay or I'll bring an unlawful detainer action and seek multiple damages." The tenant pays and remains in the apartment. Next month she brings an action to recover the rent paid.

4a) Landlord to tenant: "You owe two months rent. Pay or face criminal charges." The tenant pays and remains in the apartment. Next month she brings an action to recover the rent paid.

b) Warner Cable to college student: "You have been tapping into our cable lines. Pay or we will go to the city prosecutor." The student pays. Can he recover the money paid?

c) Bank manager to teller: "I know you took the $100 from the cash drawer. Either return the money or face criminal charges." The teller returns the money and quits his job. A month later he brings an action to recover the $100.

d) Any controlling differences among a, b & c?

5) Supplier to Merchant: "Sign this contract to purchase materials for 2010 or I will not ship what you are expecting under the 2009 contract." If he agrees, can the victim avoid (in 2010) the terms of the 2010 contract?

6) a) What is the basic law for illegal contracts? The rationale? (§17-18)

b) Smith transferred property to Wilson to avoid claims by creditors. Five years later, Wilson refuses to re-convey. Smith sues in equity to quiet title, to reform the deed and to have title declared in Smith. What result?

c) What remedies are available to the creditor? See Ark. Code Ann. § 4-59-204ff.

7) What are exceptions to the basic rule? Give an example of each.

a)

b)

c)

d)

8) Mississippi corporation (unregistered in Arkansas) paints a house in Lake Village, Arkansas.

a) What result if the home owner doesn't pay and the Mississippi corporation sues?

b) What result if the home owner has paid and subsequently seeks to recover the payment?

9) In pari delicto doctrine:

a) Landlord rents and tenant leases sub-standard housing. Landlord sues for the rent. What result?

b) Tenant has paid the rent and now seeks a partial refund. What result?

c) Restaurateur knowingly employs illegal alien as a cook and refuses to pay wages. What result?

10) In an illegal poker game, the victim loses $500. Read Ark. Code Ann. § 5-66-112, 113; 16-118-103.

a) If the winner sues to collect the $500, what result?

b) If the victim had paid the $500, what result if he sues next week to recover it, alleging that the game was fixed?

c) Same as b), but the game was not fixed.

11) Two friends bet $100 on the Cotton Bowl. The loser refuses to pay. What result? Suppose it is a friendly golf game. Same result? Suppose the loser has paid. Any refund?

12) Borrower repays the debt along with the 18% interest set out in the promissory note. Subsequently he discovers the usury law. Can the borrower recover the excess interest paid?

13) Locus poenitentiae doctrine:

a) Husband makes a down payment of $1000 to the hit-man to kill his wife. They make up and he changes his mind. Can he recover his $1000?

b) Law student spends $1.00 on a lottery to win a copy of the Arkansas Code. Overcome with guilt at his illegal act, he changes his mind. Is he entitled to his $1.00? Suppose he loses, can he then recover his $1.00?

14) Agents and Partners

a) Two dope dealers ask the court to divide up the partnership through an accounting. What result?

b) One illegal gambler entrusts $1000 of winnings to his buddy for the weekend. After the weekend, the buddy refuses to return the money, claiming it was a gift. What judicial results?

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