

Korean Contract Law II

24 October 2017

- This is a take-home examination. Completed Answer Script must be handed in **by 9:00am on 25 October 2017**.
- During the course of the examination, you may freely consult materials of your own, including online resources.
- On each Answer Script, you must write your **student number only**. Please do **not** write your name.
- You must attempt the following **two (2)** Questions. The two questions have an equal weight in assessment.

[1] Question 1 (50 points)

On 15 May 2017, Steve sold an apartment to Bob at the price of 2 billion KRW. On that day, Bob paid 20 million KRW to Steve as a partial payment of the contract deposit which was agreed to be 200 million KRW. It was further agreed that the remaining balance of the contract deposit (180 million KRW) must be paid by 16 May 2017. The remainder of the purchase price (1.8 billion KRW) must be paid on 1 July 2017 in exchange for the delivery of the possession and all the documents necessary to complete the title transfer.

When Bob failed to pay the balance of the contract deposit on 16 May, Steve sent an email to Bob and explained that the contract is terminated because Bob failed to keep the promise. Bob disputed the validity of Steve's termination. Steve sent 40 million KRW to Bob on 20 May 2017 with a note that the contract is now definitively terminated because Steve has returned double the amount he received.

The parties have exchanged more emails where Bob argued that the contract is still binding and Steve argued that the contract is terminated. On 1 June 2017, Steve concluded a contract of sale with Thomas where it was agreed that the apartment would be sold at the contract price of 2.5 billion KRW to Thomas.

Discuss how this dispute should be resolved.

[2] Question 2 (50 points)

Peter bought a plot of land from David about 7 years ago. According to the sale contract, the land is 300 square metres and David knew that the Peter was buying the land to build a shop/cafe on it. The contract price for the land was 1 billion KRW. The contract was duly performed and after taking the delivery of the land, Peter built a building on it about 5 years ago and has been running a cafe since then.

Sometime in January 2016, Owen showed up and claimed a portion of the land. Owen argued that it belonged to Owen's father who recently passed away. The size of the area claimed by Owen is 100 square metres and a portion of the building built by Peter is standing on it. Peter and Owen have negotiated for a while regarding Owen's claim and they finally agreed on 15 April 2016 that Peter would pay 0.5 billion KRW to Owen and Owen would, in return, never bring any claims to Peter in respect of the portion of the land.

After paying 0.5 billion KRW to Owen, Peter contacted David and demanded that David must reimburse Peter. David argued that there was no reason or need for Peter to pay a

penny to Owen because Owen's claims were unfounded. Alternatively, David argued that he did not know that Owen's father had a claim over a portion of the land. David also argued that 0.5 billion KRW is clearly more than what the affected portion of the land is worth. David argued that Peter and Owen agreed upon 0.5 billion KRW settlement mainly because Peter wanted keep the building. David argued that he should not be held responsible for the payment Peter made in respect of the building. David further argued that the settlement between Owen and Peter have no effect regarding David; and that it is therefore unjust if David is forced to pay when Owen could always bring a claim against David.

When it became clear that Peter and David could not agree upon an amicable solution, Peter brought a lawsuit against David on 1 May 2017 claiming that David must pay 0.5 billion KRW plus interest to Peter.

Discuss how this dispute should be resolved (please list arguments which may be put forward by each party and assess the merits of such arguments).

[End of questions. You must answer **both** questions.]