1. This is the essay portion of your final exam. You should have three pages, excluding this cover page.

2. There is one essay question. I suggest you spend 2 hours on the question.

3. Discuss all relevant issues, even if one issue seems to determine the outcome. Be thorough but concise. Do not discuss law in the abstract--apply it to the facts.

4. If you need more facts to resolve an issue, identify the facts and explain their relevance.

5. In general, you should apply modern rather than traditional rules, and majority rather than minority rules.

STOP! DO NOT FLIP THIS COVER PAGE UNTIL TOLD TO DO SO BY THE PROCTOR!
QUESTION

In 2006, Larry Local sold to Barry and Beth Blue an empty residential lot in a suburban tract that backed onto an undeveloped field. The price was $100,000.

In 2007, the Blues contacted Brick & Mortar, a company that manufactures and sells modular homes. The president, Sam Slick, did a good job of explaining the standard floor plans and optional features available. He also explained his company did not build foundations or assemble the homes that it sold. He assured them that assembly was "simple" and that "any contractor should be able to handle it."

In October 2007, the Blues signed a written contract with Brick & Mortar. The company promised to deliver a "Plan C" home with three bedrooms, two baths, a family room with stone fireplace, a gourmet kitchen, and a two-car garage. The Blues had the right to specify a delivery date anytime before June 1, 2008. The Blues promised to pay $200,000: $20,000 down and monthly installments of $1,500 over ten years, beginning on December 1, 2007.

The Blues asked a local contractor, Ned Nolan, if he could build the foundation and assemble the home for them. He replied that he'd never built a modular home before. Acting at the request of the Blues, Brick & Mortar faxed specifications for a foundation and instructions for assembly of the Plan C model to Ned. He reviewed the documents and told the Blues he could do the work for them. Ned and Barry shook hands on a price of $50,000.

Ned worked faster than expected. By the end of November 2007, Ned had completed the foundation for the home. The Blues paid him a progress payment of $15,000.

On December 1, the Blues sent their first installment payment to Brick & Mortar, along with a request for delivery of the modular home by January 15, 2008. Brick & Mortar was caught short-handed over the holiday season and had to hire extra help to complete the modular home on schedule. The home was constructed in two sections and shipped by common carrier.

On January 1, 2008, the Blues made their second installment payment. On January 15, the carrier delivered the two sections of the home to the Blues' plot of land.
Ned Nolan laid two steel rails across the foundation to support the sections as they were being moved into position. He ran into some trouble when the weight of the stone fireplace made the family room sag in the middle. Eventually he managed to maneuver both sections onto the foundation and put them together.

The Blues terminated their apartment lease and moved into the home on February 1, 2008. The Blues immediately noticed that the stone wall of the fireplace fell three inches short of the ceiling. There were cracks in the family room walls. The frames of the windows in the master bedroom had separated from the sheetrock, and the sliding door to the patio did not open. There was a noticeable difference in height between the two halves of the home.

On February 2, 2008, it began to rain heavily. The roof leaked in ten places. The rain destroyed a $2,000 painting and a $5,000 leather sofa.

Ned attempted to fix the above problems and failed. When the Blues complained, he said: "I followed the specifications and instructions to the letter. If you have a problem, take it up with the company that sold you the home. Those bozos should have installed the stone fireplace after the rest was assembled."

The Blues told Ned they weren't going to pay him anything more. They also stopped making payments to Brick & Mortar, leaving an unpaid balance of $177,000.

On March 3, 2008, a neighbor paid the Blues a visit. He gleefully informed them the undeveloped land behind their parcel was a wetland. He opined that their foundation appeared to be sinking on one side.

The Blues hired a real estate appraiser. She said their home and land, considered together, were worth only $150,000. Comparable three bedroom two bath houses in the suburban tract sell for $500,000 and up.

The Blues also hired another contractor, Carl Cynical, to inspect the property. He said he might be able to fix the problems with the foundation and home for $100,000.
Lastly, the Blues hired you to determine their legal rights and liabilities. ADVISE THEM.

END OF EXAM