IN THE COURT OF APPEALS OF IOWA

No. 0-36 / 89-605

FILED
MAR 27 1990
CLERK SUPREME COURT

KENNETH OSLAND,

Appellant,

vs.

THE ESTATE OF GENEVA L. OSLAND, GARY L. ALTEMEIER and LORI JANE MOORMAN,

Appellees.

Appeal from the Iowa District Court for Poweshiek County, Richard J. Vogel, Judge.

The plaintiff appeals the decision of the district court upholding an antenuptial agreement entered into between himself and his deceased wife. **AFFIRMED.**

Lee Walker and John Billingsley of Walker, Knopf & Billingsley, Newton, for appellant.

Herbert S. Selby of Selby, Updegraph, Smith & Holwerda, Newton, for Gary L. Altemeier and Lori Jane Moorman, appellees.

Donald J. Charnetski, Grinnell, for the appellee estate.

Heard by Oxberger, C.J., and Schlegel and Hayden, JJ.

SCHLEGEL, J.

Kenneth Osland appeals a district court order upholding an antenuptial agreement with his deceased wife. He contests the validity of the agreement based on a failure to render full disclosure and on a subsequent revocation by his deceased wife, Geneva. We affirm.

Kenneth and Geneva Osland were married on July 25, 1976. Prior to their marriage they entered into an antenuptial agreement on April 23, 1976. In 1983, Ken began farming some of Geneva's land, using equipment that belonged to him. Both he and his wife opened up a joint checking account for the farm income and expenses.

In 1985, Geneva purchased a parcel of real estate known as the "Casey property." The property was titled in her name only, but Kenneth cosigned on the mortgage. Ten months later Geneva bought another parcel of property. Again, Kenneth cosigned the mortgage to secure this property.

Geneva died intestate on October 29, 1986. At the time of her death Ken lived on one of the parcels she purchased in 1985 and 1986.

If the antenuptial agreement is found to be in effect, Kenneth asserts he will be deprived of his share of the estate.

Ken argues that his wife failed to make full disclosure, thereby rendering the antenuptial agreement

invalid. He asserts that he was misled as to the effects of the agreement concerning the property acquired in the future. At the time of his wife's death, Kenneth was living in a home which he understood to be jointly owned by them both. He argues that the effect of the agreement concerning the homestead was never fully disclosed to him.

He also asserts that the antenuptial agreement was rescinded or revoked by subsequent acts of the parties. He argues that the original agreement was rescinded by mutual consent. He asserts that if he and Geneva cosigned various mortgages as husband and wife, such acts are rendered meaningless in light of the antenuptial agreement.

The estate of Geneva Osland argues that the reason the parties entered into the agreement was to preserve property she inherited from her late husband for her children. The attorney who was present at the signing of the agreement testified that he gave a paragraph-by-paragraph explanation of the agreement to both Geneva and Ken. The estate argues that Geneva purchased the properties in 1985 and 1986 with money she had inherited from her father.

The estate asserts that the four corners of the document reflect the intent to keep the contracting parties' personal assets, present and future, separate. Further, the estate argues that Ken testified that he fully understood the language, purpose, and effect of this agreement, and that he knew that Geneva wanted her property to go to her children after her death.

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Initially, we consider the proper scope of review. The essential character of a cause of action and the relief it seeks, as shown by the complaint, determine whether an action is at law or equity. Moseback v. Blythe, 282 N.W.2d 755, 758 (Iowa App. 1979). The present action was tried at law. Our scope of review is on assigned error only. Iowa R. App. P. 4. The fact findings of the district court are binding on us if supported by substantial evidence. Estate of Ascherl, 445 N.W.2d 391, 392 (Iowa App. 1989).

Kenneth contends that the antenuptial contract is invalid due to the failure of Geneva to fully disclose all material matters bearing on the contract. The burden of proving that the contract is unconscionable is on the party claiming the invalidity of the contract unless it is unjust and unreasonable on its face. Id. If the antenuptial agreement is fair on its face and not procured by fraud, it is as legal and enforceable as other contracts. Id. Upon our review of the contract, we fail to find anything on the face of the agreement that it is unjust or unreasonable. The evidence shows that the attorney who drew up the agreement explained it to Kenneth and Geneva. It was also apparent that Kenneth knew of Geneva's land holdings. There was no evidence that Geneva tried to conceal the nature and extent of her property from Kenneth. The trial court's determination that the antenuptial agreement was valid, and that full disclosure was given, is supported by substantial evidence.

Kenneth also contends that the agreement was revoked by the subsequent acts of the parties. Kenneth bases his argument on the fact that he cosigned various mortgages and on the alleged statement by Geneva that the agreement would only remain valid for ten years. The vital matter to be ascertained is the intention of the parties. Peet v. Monger, 244 Iowa 247, 254, 56 N.W.2d 589, 593 (1953). In seeking that intent, the antenuptial contract must be taken by its four corners and studied as a whole. Id. The intention must be determined from the language of the instrument, the surrounding circumstances, and the conditions of the parties. Id. The agreement itself is clear that the parties were to retain their own property. Kenneth admitted that he knew Geneva wanted the property to go to her children after her death. In addition, Geneva kept the property in her own name and purchased it with her own funds. There is insufficient evidence to show that Geneva stated the agreement was valid for only ten years. These surrounding circumstances, in addition to the unambiguous nature of the agreement, show that the agreement was not revoked nor intended to be revoked. We affirm the trial court.

AFFIRMED.