IN THE COURT OF APPEALS OF IOWA

No. 8-105 / 97-1147

ROBERT L. MARTIN,
Appellant,

vs.

JUDITH D. SCOTT, Individually and as Executor of the Estate of PHYLLIS BELLE MARTINDALE,
Appellee.

FILED
AUG 23 1998
CLERK SUPREME COURT

Appeal from the Iowa District Court for Polk County, Larry J. Eisenhauer, Judge.

Robert Martin appeals from a district court ruling denying his request to declare an antenuptial agreement null and void. **AFFIRMED.**

Erik A. Luthens of Luthens Law Offices, P.C., West Des Moines, for appellant.

Michael F. Lacey, Jr., and Michael S. Jones of Patterson, Lorentzen, Duffield, Timmons, Irish, Becker & Ordway, L.L.P., Des Moines, for appellee.

Considered by Cady, C.J., Mahan, J, and Habhab, S.J. Streit, J. takes no part.
*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1997).

CADY, C.J.

Robert Martin appeals from a district court order denying his request to declare an antenuptial agreement void. He claims he did not fairly, freely, and understandingly enter into the agreement or waive his statutory rights to his wife's estate. We affirm the district court.

Robert Martin and Phyllis Martindale began living together in 1971. In 1986 they were married. Prior to the marriage, the parties signed an antenuptial agreement prepared by Phyllis's attorney. The antenuptial agreement allowed each party to keep all property acquired before the marriage separate and all property acquired during the marriage was considered marital property. Both parties also agreed to waive any statutory rights to the other party's estate under the agreement. Phyllis acquired and had paid for most of the parties' homestead prior to the marriage. She wanted her children to have this asset.

Five days before the marriage, Robert stopped by the office of Phyllis's attorney on his way to work to sign the agreement. Robert had never seen the agreement prior to signing it that morning. A receptionist gave him the agreement. Robert read it and signed it. Phyllis's attorney was not present while he reviewed and signed the agreement. Her attorney never reviewed or explained the terms of the agreement or suggested Robert seek separate counsel.

Phyllis died in 1995. Robert subsequently filed a petition for declaratory judgment requesting the district court find the antenuptial agreement void. The district court denied Robert's request, finding the agreement was fair on its face, there

was no allegation of fraud, Robert read the agreement prior to signing, and he understood the purpose of the agreement.

On appeal Robert claims the district court erred by failing to find the agreement void. He asserts he did not waive his rights in the agreement freely, fairly, and understandingly because Phyllis's attorney did not review the agreement with him or suggest he seek outside counsel. The executor asserts Robert's claim is barred by the doctrine of laches.

We review this equitable claim de novo. *In re Estate of Spurgeon*, 572 N.W.2d 595, 597 (Iowa 1998). We give weight to the findings of fact made by the trial court, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7).

Our case law has long held prenuptial agreements are favored in the law because such agreements "fix and determine the interest that the parties have respectively in the property of the other."[1] *In re Marriage of Applegate*, 567 N.W.2d 671, 673 (Iowa App. 1997) (citing *In re Estate of Onstot*, 224 Iowa 520, 526, 277 N.W. 563, 566-67 (1938)). When parties enter into a prenuptial agreement in the absence of fraud, mistake, or undue influence, the contract is binding. *Id.*

We treat prenuptial agreements in the same manner as ordinary contracts. *In re Marriage of Gonzalez*, 561 N.W.2d 94, 96 (Iowa App. 1997). Our Supreme Court has observed:

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[1] Iowa Code section 596.8 governs antenuptial agreements entered into after January 1, 1992.

> The person challenging the agreement must prove its terms are unfair or the person's waiver of rights was not knowing and voluntary. Applying the standard of our recent cases, we hold the terms of an agreement are fair when the provisions of the contract are mutual or the division of property is consistent with the financial condition of the parties at the time of execution. Of course, the affirmative defenses of fraud, duress and undue influence are also available to void a prenuptial agreement, as with any other contract.

In re Marriage of Spiegel, 553 N.W.2d 309, 316 (Iowa 1996) (citations omitted).

While consulting independent counsel may be a factor in determining whether an agreement was entered into fairly, freely, and understandingly, we have not held it to be determinative of procedural fairness. *See, e.g., Gonzalez,* 561 N.W.2d at 97 (holding wife did not knowingly and voluntarily waive her rights to share property accumulated during marriage when she signed prenuptial agreement without reviewing it with independent counsel, and husband explained purpose of agreement to wife); *In re Estate of Ascherl,* 445 N.W.2d 391, 393 (Iowa App. 1989) (upholding validity of antenuptial agreement where wife had an opportunity to view husband's assets and attorney reviewed agreement with wife); *In re Marriage of Sell,* 451 N.W.2d 28, 30 (Iowa App. 1989) (finding antenuptial agreement fairly procured where wife had business experience, read the agreement, and husband's attorney went over the agreement with her).

Robert claims he did not freely, fairly, and understandingly enter into the antenuptial agreement and did not knowingly waive his statutory rights because: (1) he did not have independent counsel review the agreement; (2) he was not informed

by the drafting attorney he should have sought counsel; and (3) the drafting attorney did not verify he understood the terms of the agreement. Accordingly, our essential task is to determine whether the absence of independent counsel or a review of the terms of the agreement by the drafting attorney invalidates the antenuptial agreement.[2]

We have previously held when parties to a written contract are able to read and have had the opportunity to read a contract, they cannot later claim, in an attempt to defeat the contract, they did not understand the contract terms. *Cronbaugh v. Farmland Mut. Ins. Co.*, 475 N.W.2d 652, 654 (Iowa App. 1991) (holding valid a written rejection of coverage despite insured's claims he did not understand the ramifications of signing it). Further, a mistake as to the legal consequences of known facts cannot serve as a basis for equitable relief. *In re Estate of Kokjohn,* 531 N.W.2d 99, 102 (Iowa 1995).

Although Robert did not have Phyllis's attorney or independent counsel explain the prenuptial agreement to him, he nevertheless entered into the agreement fairly, freely, and understandingly. First, Robert had the opportunity to read the agreement before signing it. Secondly, although Phyllis wanted him to sign the agreement, no one encouraged him to sign it after he read it. Further, while it may

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[2] Robert does not challenge the substantive fairness of the prenuptial agreement in this case. The prenuptial agreement provides each party keeps as separate property all property acquired before the marriage, and all property acquired during the marriage is considered marital property. Both parties also agreed to waive any statutory rights to the other party's estate under the agreement. When the terms of a prenuptial agreement are mutual, as they are here, we have held the agreement is substantively fair. *See In re Estate of Ascherl,* 445 N.W.2d 391, 392-93 (Iowa App. 1989) (holding prenuptial agreement valid where waiver of rights was mutual); *see also In re Marriage of Spiegel,* 553 N.W.2d 309, 314-15 (Iowa 1996) (discussing substantive fairness).

have been to his advantage to seek his own counsel or question Phyllis's attorney before signing the agreement, he elected not to pursue either of these options. He decided instead he did not want to be late for work or upset Phyllis. Additionally, he testified he understood the basic terms and general purpose of the agreement. He also indicated he knew the agreement was designed to protect the premarital assets of each party, and reviewed an affidavit of financial status prepared by Phyllis prior to signing the agreement. Robert had the opportunity to read or question the agreement, and acknowledged he knew the extent of the parties' assets. Under these circumstances, we conclude the procedural fairness requirements have been met. Accordingly, we affirm the district court, and it is unnecessary to address the defense of laches.

AFFIRMED.