



IN THE COURT OF APPEALS OF IOWA CLERK SUPREME COURT

EDWARD J. WEDELSTEDT,

Appellant,

v.

ROLAND HIEMSTRA and
KEITH CLARK,

Appellees.

Filed May 31, 1978

497
2-60029

Appeal from Linn District Court - August F. Honsell, Judge.

Plaintiff appeals adverse judgment in action to rescind contract for sale of corporate stock. Affirmed.

Robert F. Wilson, of Cedar Rapids, for appellant.

Larry G. Gutz, of Cedar Rapids, for appellee Hiemstra.

Maurice L. Nathanson, of Cedar Rapids, for appellee Clark.

Submitted to Allbee, C.J., Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Plaintiff appeals adverse judgment of trial court in his action seeking to rescind a contract to purchase stock in a corporation. The purchase was in effect the acquisition of a nursery and sodding business previously owned and operated by defendants.

Plaintiff's claim in the trial court was predicated upon alleged fraudulent misrepresentations by defendants or their agents. After hearing the evidence, the trial court found that, in application of the rules for determining equitable fraud stated in *Wilden Clinic, Inc. v. City of Des Moines*, 229 N.W.2d 286, 292 (Iowa 1975), the conduct in question was not fraudulent, did not deceive plaintiff, and to the extent inaccurate statements were made they involved opinion rather than fact. Denial of rescission was predicated upon these findings and, upon the additional finding and conclusion that plaintiff did not act promptly to seek rescission once all of the facts concerning the areas of alleged false representations became known to him.

On this appeal plaintiff urges that we should determine on our de novo review, under rule 4, Rules of Appellate Procedure, that defendant's acts were in fact fraudulent and induced him to make the agreement he seeks to rescind. He nowhere asserts or argues on appeal that the trial court erred in its alternative determination that his attempt to rescind was untimely. If not refuted the trial court's determination of this issue is fatal to plaintiff's case under applicable law. See, e.g., *Test v. Haeberlin*, 254 Iowa 521, 524-25, 118 N.W.2d 73, 75 (1962). Plaintiff has failed to demonstrate that the trial court's finding on this issue is wrong. Under rule 14(a)(3), R. App. P., his failure to brief, argue or cite authority on this issue is properly deemed a waiver of his right to challenge the result reached below. We therefore affirm the judgment of the trial court.

AFFIRMED.