

**IN THE COURT OF APPEALS OF IOWA**

No. 7-540 / 96-1301

**IN RE THE MARRIAGE OF MICHAEL D. CUNNINGHAM  
AND LINDA L. CUNNINGHAM**

Upon the Petition of  
**MICHAEL D. CUNNINGHAM,**

Appellee,

And Concerning  
**LINDA L. CUNNINGHAM,**

Appellant.

FILED  
JUN 24 1998

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Appeal from the Iowa District Court for Story County, M.D. Seiser, Judge.

Linda Cunningham appeals from entry of the parties' dissolution decree.

**AFFIRMED.**

Brent D. Hege, Des Moines, for appellant.

Tom Hyland and Gregory D. Brandt of Hyland, Laden & Pearson, P.C., Des  
Moines, for appellee

Considered by Cady, C.J., and Huitink, and Streit, JJ.

**CADY, C.J.**

Linda Cunningham appeals from a decree entered by the district court dissolving her marriage to Michael Cunningham. She claims the district court erred in finding the parties reached a binding settlement after a mutual mistake arose over the meaning of the language of the stipulation, and in entering the written decree with knowledge she had repudiated the stipulation. Linda also claims the decree was inequitable and improperly forces her to maintain a continuing business relationship with her former spouse. We affirm.

Michael filed a petition to dissolve his marriage to Linda in April 1995. The parties' major assets included a home valued at \$150,000 and a nursing home valued in excess of \$350,000. There were, however, substantial debts, including an obligation to Internal Revenue in excess of \$200,000. The parties contemplated the nursing home business would be reorganized following the divorce due to the large amount of debt.

The parties worked diligently to reach a property settlement prior to trial. On the day of trial, the district court permitted the parties to continue their settlement negotiations at the courthouse. Eventually, counsel reported to the district court a stipulation had been reached on all issues. The stipulation was then read into the record by Michael's counsel in the presence of the trial judge, the parties, and Linda's counsel. In relevant part, the stipulation provided:

The respondent [Linda] will be awarded the family home. The petitioner [Michael] will sign a quitclaim deed. However, the respondent agrees to sign whatever documents are necessary to place a loan in the highest amount that can be obtained on the real estate so that the proceeds can be used to pay either Internal Revenue or the judgments rendered in Story County.

.....  
If for any reason it should be required, even though Mr. Cunningham is going to be awarded all right, title and interest to the nursing home, that Mrs. Cunningham would have to sign the note on the home for any reason, she would sign that and, of course, Mr. Cunningham would bear full responsibility for it.

The trial judge asked both parties whether they agreed to and understood the terms of the settlement. Both parties indicated they did. The trial court then ordered Linda's counsel to prepare and submit a written decree.

A dispute subsequently arose in the preparation of the written decree over the language describing Linda's obligation to sign the documents Michael anticipated may be necessary to reorganize the business. Linda acknowledged she would be required to give a mortgage on the home, but believed the stipulation should specify she would not be liable for any new debt and would not be required to incur any personal liability by signing the new notes Michael would need to reorganize the business. Michael, on the other hand, believed the stipulation obligated Linda to sign any documents Michael may need to effectuate his reorganization, including any notes. It was anticipated Michael would need to obtain a new loan of approximately \$350,000 to reorganize the business.

Following a hearing, the district court found the oral stipulation read into the record on the day of trial obligated Linda to become personally liable. It specifically rejected Linda's interpretation that she not be required to "sign any note or other evidence of personal liability." The district court found the stipulation was accepted and became final on the day set for trial. This appeal by Linda followed.

### I. Mistake

Linda first argues the misunderstanding between the parties concerning her obligation to assume personal liability of the reorganized debt made the stipulation unenforceable for lack of consent. We agree a purported contract is generally unenforceable when a latent ambiguity in the meaning of the contract is discovered which reveals one party believed the language has one meaning and the other party believed it has another meaning. *See* 17A Am. Jur. 2d *Contracts* § 31 (1991). Yet, parties to a contract are bound by the meaning of the words used in an agreement, as properly interpreted, even though one of the parties believed the words mean something different, as long as the other party does not know of the mistake. *Id.* § 228. In this situation, mutual assent is found from the agreement and the parties are bound by the agreed terms as properly interpreted by the court under the governing rules. *See Lamson v. Horton-Holden Hotel Co.*, 193 Iowa 355, 362, 185 N.W. 472, 474-75 (1921).

In this case, the parties entered their stipulation into the record and specifically acknowledged the agreed terms. Those terms required Linda to sign "whatever

documents” would be necessary to “place a loan in the highest amount that can be obtained on the real estate.”

The term “real estate” clearly referred to the parties’ home. The stipulation later specifically forecasted this obligation could require Linda to sign a “note on the home.” Neither party voiced any misunderstanding with the contract language and the court then accepted the stipulation as its decree.

A stipulation in a dissolution proceeding is a contract between the parties and becomes a final contract once accepted and approved by the court. *In re Marriage of Lawson*, 409 N.W.2d 181, 182 (Iowa 1987). It is based upon consent, which must exist at the time the court makes the stipulation a judgment. *See In re Marriage of Hansen*, 465 N.W.2d 906, 908 (Iowa App. 1990). Once the stipulation is transformed into a decree, it is interpreted and enforced as a final judgment, not a contract between the parties. *Lawson*, 409 N.W.2d at 182.

Once the district court in this case accepted the stipulation and approved it as its final decree, any subsequent disagreement over the meaning of its language would not render the stipulated decree unenforceable. Instead, it would require the court to determine its meaning under the accepted rules of interpretation.

We fail to find any ambiguous language in the stipulation which would have rendered the stipulation unenforceable. The stipulation clearly expressed an obligation for Linda to sign a note, and she cannot now claim this term was never intended to be part of the stipulation.

## II. Repudiation

Linda next claims the district court erred when it entered its written decree with knowledge she had repudiated the stipulation. She asserts the district court was required to set a new trial date when the disagreement surfaced prior to the entry of the written decree.

If the consent of the parties to enter into a stipulation is lacking at the time the trial court accepts the stipulation as its decree, no decree can be entered. *Hansen*, 465 N.W.2d at 908. A stipulation, however, can become binding prior to the formal entry of the written decree. *See In re Marriage of Ask*, 551 N.W.2d 643, 646 (Iowa 1996). Once the trial court approves of the stipulation, the parties have no legal right to repudiate it. *Id.*

In this case, the parties acknowledged their consent to the stipulation just prior to the time the court orally approved it and indicated a written decree would be filed. After the trial court approved the decree, the parties had no right to repudiate it.

## III. Equity

Linda argues the decree was inequitable because she will be personally liable for the reorganized debt contemplated by Michael. She points out this debt could be between \$300,000 and \$500,000.

We first observe the district court has not been asked by the parties to interpret the language of the decree. The court merely selected the language used by the parties to enter the decree. Thus, there has been no formal judicial determination that

Linda will be obligated to sign all notes executed by Michael in his business reorganization efforts. To the contrary, the language of the decree specifically limits Linda's obligation to execute loan documents "in the highest amount that can be obtained on the [house]." We note the value of the house is \$150,000. Furthermore, Michael is required to hold Linda harmless for any new loan placed on the house. Under these circumstances, the decree is equitable.

We also reject the claim by Linda that the arrangement forces her to maintain a continuing business relationship with Michael. *See In re Marriage of Lundtvedt*, 484 N.W.2d 613, 615 (Iowa App. 1992). This case is clearly distinguishable from *Lundtvedt*, and no business relationship is imposed between Linda and Michael.

#### **IV. Conclusion**

We have considered all claims raised. We affirm the district court.

**AFFIRMED.**