

Commonwealth of Kentucky

Court of Appeals

NO. 2009-CA-001102-MR

CAROLINE COPLEY

APPELLANT

v. APPEAL FROM MARTIN CIRCUIT COURT
HONORABLE JOHN DAVID PRESTON, JUDGE
ACTION NO. 08-CI-00110

DANITA COPLEY, INDIVIDUALLY;
AND DANITA COPLEY, EXECUTRIX
OF THE ESTATE OF DANIEL H.
COPLEY

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: CAPERTON, THOMPSON, AND VANMETER, JUDGES.

VANMETER, JUDGE: Caroline Copley appeals from a judgment of the Martin Circuit Court which held the antenuptial agreement executed between Caroline and

her deceased husband, Daniel Copley, prior to their marriage was valid and enforceable. For the following reasons, we affirm.

On April 20, 2005, as the couple was preparing to leave for Tennessee to get married, Daniel presented an antenuptial agreement to Caroline, which she signed without consulting anyone. The couple wed on April 23, 2005.

Approximately three years later, Daniel passed away. Thereafter, Caroline renounced the bequest she received under his will, which was in accordance with the antenuptial agreement, and filed this action seeking to set aside the antenuptial agreement so that she could pursue her statutory share of his estate. Following a bench trial, the trial court held the antenuptial agreement to be valid and enforceable against Caroline. This appeal followed.

Caroline claims the trial court erred by holding that partial disclosure of Daniel's assets was sufficient disclosure and by allocating to her the burden of proving full disclosure.

In actions tried upon the evidence and without a jury, the trial court's findings of fact may not be set aside unless clearly erroneous, with due regard being given to the opportunity of the trial court to consider the credibility of the witnesses. CR¹ 52.01. *See also Lawson v. Loid*, 896 S.W.2d 1, 3 (Ky. 1995).

To be enforceable, an antenuptial agreement must not have been obtained through fraud, duress or mistake, misrepresentation, or non-disclosure of material facts. *Gentry v. Gentry*, 798 S.W.2d 928, 936 (Ky. 1990). *See also*

¹ Kentucky Rules of Civil Procedure.

Edwardson v. Edwardson, 798 S.W.2d 941, 945 (Ky. 1990) (The first limitation upon parties to an antenuptial agreement is the requirement of full disclosure). The disclosure requirement exists to ensure that “[b]efore parties should be bound by agreements which affect their substantial rights upon dissolution of marriage, it should appear that the agreement was free of any material omission or misrepresentation.” *Edwardson*, 798 S.W.2d at 945 (citations omitted). In other words, “[i]n such agreements, the wife must be fully apprised of the extent and nature of the estate and value of what she is surrendering in the agreement.” *Lawson*, 896 S.W.2d at 2.

Caroline first argues that the antenuptial agreement is invalid since Daniel’s assets were not fully disclosed to her prior to execution of the agreement. Specifically, she claims that the trial court erred by holding that partial disclosure was sufficient to satisfy the disclosure requirement.

In *Lawson v. Loid*, the Court held that the trial court did not err by finding that the required disclosure was complete. *Id.* at 2-3. In that case, the trial court conducted a bench trial and found that the wife was aware of the husband’s assets prior to execution of the prenuptial agreement, was an educated woman who had been previously married and divorced, had worked as a bookkeeper in a Buick dealership owned by her husband prior to marrying him, and maintained a separate bank account during the course of their marriage. *Id.* at 3. Further, it does not appear that schedules detailing the couple’s respective assets were prepared or

attached to the prenuptial agreement. Nonetheless, the Court held substantial evidence existed to show that the requisite disclosure had been made. *Id.*

In this case, Caroline emphasizes that schedules detailing the couple's respective assets were not attached to the antenuptial agreement. Indeed, the trial court found as much, and thus addressed the extent of disclosure or acknowledgment by Caroline as to Daniel's assets. In particular, the court ascertained Caroline's knowledge of Daniel's assets and whether Daniel misrepresented the extent and nature of his assets in order to get Caroline to sign the agreement. The court noted that at the time of their marriage, Caroline was aware that Daniel owned the Auto Mart, the post office building, the Family Dollar Store, the car wash, his motor home, his main residence at Hode, his small house at Hode, his vehicles, and was on the board of Inez Deposit Bank. Using figures from a financial statement prepared for Daniel in 2004, which assessed his total net worth at \$5,398,225, the court determined that Caroline had knowledge of Daniel's ownership of at least \$2,645,000 worth of property, approximately half of his net worth, at the time she signed the agreement. The court further noted that an inventory of the estate of Daniel revealed the estate had assets of \$2,978,356.

The record reflects that under both the antenuptial agreement and Daniel's will, Caroline received his main residence at Hode, appraised at approximately \$200,000; two vehicles, a Ford Thunderbird and a Cadillac Escalade; and monthly rental income of approximately \$4,000 from various commercial properties. The agreement further provided that in the event the

marriage was terminated by death or dissolution, Caroline would receive \$20,000 cash based upon the length of the marriage. Applying the factors set forth in *Gentry*, the court concluded that the agreement was obtained as a result of partial disclosure of material facts, was not procured by way of misrepresentation, and was valid and enforceable.

Our review of the record reveals that Caroline had substantial knowledge of the nature and extent of Daniel's assets prior to executing the agreement so as to satisfy the disclosure requirements. In addition, the record does not reflect any misrepresentation or non-disclosure of material facts on Daniel's behalf so as to render the agreement invalid. Thus, substantial evidence exists to support the decision of the trial court and its findings are not clearly erroneous.

Next, Caroline contends the trial court erred by allocating to her the burden of proving full disclosure. The burden of proof regarding full disclosure of assets at the time of the agreement "rests on the party relying on the agreement." *Lawson*, 896 S.W.2d at 2. In this case, the estate of Daniel relied on the agreement and thus was required to prove full disclosure. While the trial court's 17-page judgment states in its concluding paragraph that "Plaintiff [Caroline] has failed in her burden of proving that the antenuptial agreement of April 20, 2005, is invalid[,] we find that any error which may have resulted from the court's misstatement of the burden of proof was harmless. Indeed, our review of the record discloses that the court made sufficient findings regarding disclosure throughout its judgment without reference to, or reliance upon, the burden of proof

and thus any error which may have resulted from the trial court's misstatement was harmless.

The judgment of the Martin Circuit Court is affirmed.

CAPERTON, JUDGE, CONCURS.

THOMPSON, JUDGE, CONCURS IN RESULT ONLY.

BRIEF FOR APPELLANT:

Brian Cumbo
Inez, Kentucky

BRIEF FOR APPELLEE:

Michael S. Endicott
Paintsville, Kentucky