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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1227**

In re the Marriage of:

Susan E. Plaisted, petitioner,
Appellant,

vs.

Gerald E. Plaisted,
Respondent.

**Filed July 15, 2008
Reversed and remanded
Kalitowski, Judge**

St. Louis County District Court
File No. 69DU-FA-06-58

A. Larry Katz, Kathryn A. Graves, Naomi Garfinkel, Katz, Manka, Teplinsky, Due & Sobol, Ltd., 225 South Sixth Street, Suite 4150, Minneapolis, MN 55402 (for appellant)

Dennis J. Korman, Nicholas B. Schutz, Korman Law Office, 6 - 11th Street, Cloquet, MN 55720 (for respondent)

Considered and decided by Kalitowski, Presiding Judge; Wright, Judge; and Worke, Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant Susan E. Plaisted challenges the district court's order granting a motion to enforce a settlement agreement, resulting in a judgment dissolving her marriage to

respondent Gerald E. Plaisted. Appellant argues that the district court erred in determining that the July 29, 1999 agreement resolved all issues regarding the parties' dissolution. Because the agreement was executed during a prior, dismissed dissolution proceeding, and is not a valid postnuptial agreement, we reverse and remand to the district court.

D E C I S I O N

As an initial matter, appellant argues that because this appeal is “essentially” taken from a summary-judgment determination, we should reverse if there are disputed material facts. We disagree. Because this appeal follows a judgment granting a motion to enforce a settlement agreement, we will not reverse the district court’s decision to enforce unless it is “palpably contrary to the evidence.” *Skalbeck v. Agristor Leasing*, 384 N.W.2d 209, 212 (Minn. App. 1986). And although this court gives great deference to the district court’s factual findings, we review the district court’s application of the law de novo. *Rehn v. Fischley*, 557 N.W.2d 328, 333 (Minn. 1997).

Appellant argues that the agreement at issue, which was executed on July 29, 1999, while an earlier dissolution proceeding was pending, cannot bind the parties in this subsequent dissolution proceeding unless it was a valid postnuptial agreement. We agree.

A “settlement” is defined as “[a]n agreement ending a dispute or lawsuit.” *Black’s Law Dictionary* 1377 (7th ed. 1999). But even assuming that the 1999 agreement would have been a binding settlement of the dissolution action that was commenced in October 1995, the record indicates that action was administratively dismissed. Thus, we conclude that the agreement cannot be binding in this dissolution action, which was commenced in

November 2005, unless it was a valid postnuptial agreement. Once the parties reconciled, and certainly no later than when the first dissolution petition was dismissed, there was no longer any dispute or lawsuit to settle. *See* Minn. R. Civ. P. 41.02(c) (stating that under these circumstances a dismissal operates as an adjudication on the merits).

Appellant argues that because the 1999 agreement contemplated the parties' reconciliation, it can properly be enforced in a subsequent dissolution proceeding. But the agreement makes no reference to reconciliation. *See Travertine Corp. v. Lexington-Silverwood*, 683 N.W.2d 267, 271 (Minn. 2004) (stating that the intent of contracting parties must generally be ascertained from the four corners of a written contract).

Moreover, this argument by appellant highlights the distinction between a dissolution settlement agreement and a postnuptial agreement: a dissolution settlement agreement contemplates dissolution, whereas a postnuptial agreement contemplates continued marriage. And to be a valid postnuptial agreement, an agreement must strictly comply with the formalities enumerated by statute. Minn. Stat. § 519.11 (2006) (requiring that, prior to the agreement, full disclosure of earnings and property be made and each spouse be given an opportunity to be advised by independent legal counsel; the agreement itself must be a writing signed by both spouses before two witnesses and notarized); *see also id.*, subd. 6 (stating that these requirements "shall apply to all postnuptial contracts and settlements executed on or after August 1, 1994."). Here, both parties agree that the July 1999 agreement, which is not notarized, fails to meet the statutory requirements to qualify as a postnuptial agreement. Thus, we conclude that the

district court erred in determining that the agreement resolved all issues regarding the parties' dissolution.

In addition, the 1999 agreement deals with the division of real property, and without a determination regarding the parties' current financial situation, the district court could not properly determine if the division is fair and equitable. Also, the agreement failed to fully disclose the parties' earnings and assets, and made no mention of spousal maintenance. Although we express no opinion regarding appellant's entitlement to maintenance, because the agreement does not address maintenance, the district court's finding that "[t]he parties mutually waived spousal maintenance" is clearly erroneous. *See* Minn. Stat. § 518.552, subd. 5 (2006) ("[P]arties may expressly preclude or limit modification of maintenance through a stipulation . . .").

Based on our determination that the settlement is not a valid agreement resolving all dissolution issues, we reverse and remand for further proceedings consistent with this opinion. In light of this conclusion, we need not address appellant's additional arguments that the agreement was not accepted by appellant and violated the statute of frauds.

Reversed and remanded.