

March 2006

I do... if you sign here first

Do prenups doom marriages?

By Evan Pondel, Staff Writer

"I now pronounce you man and ..." Hang on! Is there still time for a prenup?

That's close to how Major League slugger Barry Bonds broached the who-should-get-what-if-we-split question when he signed a prenuptial agreement the day before he married his now ex-wife.

His last-minute jitters triggered a California Supreme Court ruling that rendered prenuptial agreements invalid when signed within seven days of a wedding. Fortunately for Bonds, the law went into effect after he and his ex-wife's divorce was finalized, saving him millions of dollars.

Bonds is just one of dozens of celebrities whose prenups have made the headlines. But experts say the agreements are no longer the exclusive preserve of the rich and famous - especially in an age when soaring real-estate prices has turned many a humble homeowner into a millionaire.

"Everyone should have a prenup so that when you get divorced you are not surprised at what happens," said Robert J. Nashchin, a West Los Angeles attorney who represented Bonds and country singer Buck Owens (whose prenup ended in a court settlement for an undisclosed amount). "Just make sure you do it way in advance. ... Without one you have to deal with the subjectivity of a judge."

Call them romance ruiners, wedding crashers or couple killers, it is difficult to avoid the subject of prenups when divorces are so popular. The National Center for Health Statistics estimates that 43 percent of all marriages experience disruption in the form of separation or divorce after 15 years of wedlock. At the same time, there are approximately four divorces per 1,000 married people in the U.S.

Of course, under California law, each spouse automatically owns half interest of any property acquired from the date of marriage to separation. And that includes income and debt accrued during a marriage - unless a prenup states otherwise.

And perhaps it should, according to Kacy Gott, a principal at Kochis Fitz Wealth Management in San Francisco. Though Gott considers himself a romantic at heart, he believes most - if not all - of his clients should consider a prenup.

"I like them because they get couples talking about money and far too often people don't talk about money and how it is going to work out," said Gott, who did not get a prenup when he married.

Michelle Sly, 38, from West Hills also did not get a prenup - something she would have done in retrospect.

"To me, marriage is an outdated institution that needs a little updating," said Sly, a travel agent now married for 15 years. "I mean look at how many people spend most of their time fighting about money."

Sly is pro-prenup because she understands the financial kerfuffle that surfaces after more than a decade of marriage. Not that she is mulling a divorce, but Sly said she thinks men and women need to keep their financial interests closer to heart.

Prenups are also relatively easy to draft. There are no rules governing what should be included in a prenup. Some penalize wives who gain too much weight, while others make husbands fork out dough every time they dis their in-laws.

The cost ultimately depends on a prenup's attention to detail, not the amount of wealth, and can generally range from \$5,000 on up. Of the fundamentals, Gott said a prenup should spell out how a couple intends to distribute their assets.

But prenups are not for everyone, and occasionally they even pre-empt a breakup. Naschin said he has experienced several relationships that went awry after the prenup topic surfaced. And no matter how enticing the financial benefits of a prenup, Bruce Fountain, a marriage and family therapist from Redlands, advises against them at all costs.

"A prenup suggests you are not fully committed and that transfers spiritually and emotionally as well," he said. "In many ways, prenups are like keeping your fingers crossed behind your back."

Donald Absey, 77, agrees with Fountain. He's been married for 52 years and believes a prenup would have compromised he and his wife's relationship.

"Prenups stink. I believe in 'for better or for worse,'" said Absey, a pension actuary from Calabasas. "Everyone knows marriage ain't easy. But a prenup predisposes you to think it's going to fail."

To those who are worried that suggesting a prenup could alienate a prospective spouse and ultimately destroy a relationship, Gale Roque, a senior financial adviser with Ameriprise in Pasadena, says it could actually build trust.

Roque has learned from experience, having failed to sign one before her marriage that ended in divorce. If she ever marries again, she will draft one up.

"It's a great way to establish trust on both ends," she said. "It is important to set expectations, fears and concerns aside, especially if you have children. A prenup can be a very loving thing."

But before putting ink to paper, the initial challenge is broaching the subject with a potential spouse who may be lost in the dreamy world of wedding planning. For the nervous types, Roque recommends putting the onus on a financial planner. For example, a couple meets with their planner and the planner brings up the prospect of drafting a prenup. That immediately starts the conversation and eliminates the awkwardness for the fiances.

Attorney Nashchin also suggests that a prenup could be used as a reason to list the future spouse as a beneficiary on a life insurance policy. "You say something like, 'Honey, look, if we don't have a prenup and we're married a month and I die, there won't be community property and you won't get much support,'" said Nashchin, who doesn't have a prenup.

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