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2025 IL App (3d) 230121-U

Order filed February 20, 2025

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2025

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
)	of the 18th Judicial Circuit,
ALMA CINA,)	Du Page County, Illinois.
)	
Petitioner-Appellee and Cross-)	
Appellant,)	Appeal No. 3-23-0121
)	Circuit No. 21-D-702
and)	
)	
ILIR CINA,)	
)	The Honorable
Respondent-Appellant and Cross-)	Timothy J. McJoynt,
Appellee.)	Judge, Presiding.

JUSTICE ANDERSON* delivered the judgment of the court.
Presiding Justice Brennan and Justice Bertani* concurred in the judgment.

ORDER

¶ 1 *Held:* In dissolution action, trial court did not err in (1) granting wife one-fourth interest in family home based on claim of promissory estoppel, or (2) determining that Ilir was responsible for missing money and jewelry from safes located in family home.

* Justices Anderson and Bertani were substituted on the panel. Justices Anderson and Bertani did not participate in oral argument but have fully reviewed the briefs and record on appeal.

¶ 2 Petitioner Alma Cina and respondent Ilir Cina married in 1996. In 2021, Alma filed a petition for dissolution of marriage and later filed a supplemental complaint, seeking an ownership interest in the home she had lived in throughout the marriage. Following a bench trial, the trial court ruled that Alma established a claim for promissory estoppel and, therefore, was entitled to a one-fourth interest in the home. The court also found that Ilir had removed jewelry and cash from two safes in the home and ordered him to return Alma’s jewelry and give her half the cash. Ilir appeals, arguing that the trial court erred in (1) ruling in favor of Alma on her claim of promissory estoppel and awarding her a one-fourth interest in the home, and (2) determining that he took the cash and jewelry from safes in the home. Alma cross-appeals, arguing that if we reverse the trial court’s ruling on promissory estoppel, we should, nevertheless, affirm the trial court’s decision to award her an interest in the home on other grounds. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Ilir and his parents, Lefter and Petrina Cina, moved to the United States from Greece in 1993. Soon after coming to the United States, they obtained jobs. Lefter and Ilir worked as custodians at Wheaton School District, and Petrina worked as a housekeeper at a hotel. They lived together in a one-bedroom apartment in Wheaton.

¶ 5 In August 1995, Ilir and Petrina returned to Greece to visit relatives. During that trip, Ilir, who was 24 years old, met Alma, who was 15 years old. By late September 1995, Ilir and Alma were engaged. After Ilir and Alma’s engagement ceremony, Ilir and Petrina returned to the United States. On May 31, 1996, Ilir, Lefter and Petrina purchased a home in Carol Stream. In July 1996, Ilir and his parents returned to Greece, and on July 13, 1996, Ilir and Alma participated in a ceremonial wedding in Greece. The following month, Alma came to the United States and moved

into the Carol Stream house with Ilir and his parents. On December 13, 1996, Alma and Ilir were legally married in Du Page County.

¶ 6 In January 1998, Ilir, Lefter and Petrina refinanced the mortgage on the home. The next day, Alma gave birth to her and Ilir's first child, C.C. In January 2000, the parties had their second child, M.C. In May 2003, the mortgage on the home was paid in full. In 2005, Alma gave birth to her and Ilir's third child, A.C. Several months after that, Alma began working at Target, where she has worked continuously since.

¶ 7 On March 31, 2021, Alma left the family home. Less than two weeks later, she filed a petition for dissolution of marriage. On May 24, 2021, Alma filed a petition to amend to add Lefter and Petrina Cina as third-party defendants in the dissolution action. According to the allegations contained in Alma's petition, prior to her marriage, Ilir promised Alma ownership in a house in the United States in exchange for her agreement to marry him.

¶ 8 In August 2021, Alma filed a supplemental complaint, which contained additional facts about Ilir's promise of ownership in a house in exchange for her promise to marry him. In count II of the complaint, Alma asserted that the Carol Stream home should be classified as marital property because it was acquired in contemplation of marriage. Alma also raised claims for partition (count III), unjust enrichment (count IV) and equitable and promissory estoppel (count V). Ilir and his parents filed motions to dismiss Alma's supplemental complaint. Following a hearing, the trial court granted the motions in part, dismissing Alma's unjust enrichment claim, but allowing Alma's remaining claims to stand.

¶ 9 The case proceeded to a bench trial in September 2022. Alma testified that in the fall of 1995, she was living in Greece with her parents and three younger sisters. In early September 1995, Ilir, Petrina and Petrina's son-in-law, Victor, came to her house to discuss Alma marrying Ilir with

Alma's mother and maternal grandfather. According to Alma, she and her mother were "not receptive to the idea." Petrina, Ilir and Victor then left Greece and went to Albania to visit Alma's paternal grandfather to discuss Ilir's offer to marry Alma. A few weeks later, Ilir returned and told Alma that he and his parents were planning to buy a house that would belong to her and Ilir. That conversation made Alma feel better about marrying Ilir because it provided her "some security." After that, Ilir's family came to Alma's house to eat sweets and drink wine, which symbolized "a promise of a union."

¶ 10 Alma testified that the next day she talked to her mother about the terms of the marriage. Alma said her understanding was that once she married Ilir, she would go the United States, finish her schooling and own a house with him. Alma stated: "In fact, those were the only two reasons why this union happened, because he was providing me security." Alma testified that her family in Greece was financially secure and she was still attending school, so she would not have agreed to marry Ilir if he had not promised her home ownership and continuation of her schooling.

¶ 11 In late September 1995, a formal engagement party was held for Ilir and Alma in Greece. Alma testified that in late September or early October, Ilir went to the United States to look for a house near his brother. In May 1996, Ilir and his parents purchased a house and sent Alma a photograph of the house with the three of them standing in front of it. Alma testified that she and Ilir participated in an unofficial wedding ceremony in Greece on July 13, 1996, three days before her sixteenth birthday.

¶ 12 Alma testified that she came to the United States on August 2, 1996. She attended Wheaton North High School and completed her sophomore year. She testified that Ilir and his parents did not allow her to attend school after that. Alma testified that while she was attending school, she had a part-time job at a dry cleaner. Alma testified that in the fall of 1996, Petrina first talked to

her about contributing to the mortgage on their house. Petrina told Alma that she needed to work so she and Ilir could pay their half of the mortgage. Alma testified that before that conversation she did not know what a mortgage was nor that the house she was living in had a mortgage on it. Alma testified that Ilir was contributing to the household bills and mortgage in 1996.

¶ 13 Alma testified that Petrina acted as the “bookkeeper of the house.” She tracked all the expenses and at the end of the month told Ilir and Alma how much they owed. Ilir and Alma paid Petrina with checks or cash, and Petrina then paid the bills. Alma testified that the expenses she and Ilir paid included the mortgage, real estate taxes, and utilities.

¶ 14 Alma testified that Ilir and his parents refinanced the mortgage in 1998, when she was 17 years old. She attended the closing but was told she could not be on the mortgage because she was “underage.” Alma said she believed that Ilir’s name on the mortgage meant that she and he “were co-owners of the house.” Alma testified that she did not know what a deed was at the time of the refinancing and did not learn until she filed for divorce that she was not on the deed to the house. Alma testified that if she had known she did not have an ownership interest in the house, she would not have paid for real estate taxes or other expenses for the Carol Stream house and would have purchased her own house. Alma testified that she tried to obtain bank records from 1998 to 2003 but was unable to do so. She said she could only access bank records for the last seven years.

¶ 15 Alma testified that many improvements to the house were made from 1996 to 2005, including replacing the windows, installing and expanding a deck, changing flooring, replacing light fixtures, building a shed, installing a fence, and finishing the basement by adding a bathroom, laundry room, bedroom and closets. She testified that she and Ilir paid for half of all the improvements except for the lighting, which they paid for entirely. When counsel asked Alma if she had receipts for these improvements, she replied: “I left the house with my body and the

clothing on my body, so no, I do not.” Alma testified that if any receipts still exist, they would be in the Carol Stream house, which she did not have access to.

¶ 16 According to Alma, in 2014 or shortly thereafter, she and Ilir solely paid for the following improvements to the home: a new roof that cost approximately \$10,000, new flooring that cost \$7000 to \$8000, a new air conditioner and furnace that cost \$10,172, crown molding that cost approximately \$3000 to \$4000, and updates to bathrooms that cost \$5950. Alma admitted into evidence an invoice for mold removal that cost \$2973, which she testified was paid jointly expense paid by her, Ilir and his parents. Alma also admitted into evidence copies of checks she wrote to Petrina for \$2085.35 in 2016, \$2547.10 in 2017, and \$2445 in 2019. Alma testified that those checks were for monthly expenses, including real estate taxes and insurance for the house. Alma testified that she usually paid Petrina for monthly expenses in cash. Alma also identified large withdrawals from her and Ilir’s bank account of \$2391 in 2015, \$2550 in 2016, \$3600 in 2018, and \$1000 and \$2600 in 2019. Alma testified that those amounts were given to Petrina to pay real estate taxes. Alma testified that “[a]s the children got older, the expenses would be divided by the heads, including the children.” She testified that in 2021, she and Ilir were paying many of the household expenses, including 5/7 of the real estate taxes.

¶ 17 Alma testified that she and Ilir had two safes in the house: a gray fire box kept on a shelf in the bathroom that contained \$40,000 of her and Ilir’s money, and a black safe in her and Ilir’s bedroom closet that contained \$5000 that belonged to their daughter, M.C., Alma’s jewelry, and important documents. Alma testified that on March 31, 2021, after an argument with Ilir, she left the house with only the clothes she was wearing and a shirt for work. She testified that when she left, the fire box was in the bathroom, and the black safe was in the closet.

¶ 18 Alma did not return to the house until late April when she was escorted by the police. At that time, she saw the gray fire box in the bedroom closet next to the black safe. Alma testified that the fire box was closed, and the drawer where she kept the key was empty. She testified that the black safe was open and completely empty.” Alma testified that the missing jewelry consisted of a necklace, earrings, a ring, and a bracelet that Ilir gave her following the birth of their son. Alma testified that the jewelry cost \$5700 when Ilir purchased it. Alma testified that when she asked Ilir about her jewelry, he said he “didn’t know anything about it.” When Alma asked Ilir about the \$40,000 that was in the fire box, she said he said “in a sickening sweet tone ‘I don’t know anything about it.’ ” Alma testified that she was never alone inside the home after March 31, 2021.

¶ 19 M.C. testified that she moved out of the Carol Stream home in 2020 but left \$5000 in cash in an envelope inside her parents’ black safe. On April 17, 2021, M.C. returned to collect her money. Ilir refused to give the money to her, telling her she “could get it back once the divorce is finalized.” While she was in the home, M.C. opened the black safe and found a red folder, Alma’s social security card, passports and some jewelry. M.C.’s cash was not in the safe. M.C. took a photograph of the contents of the safe, which was admitted into evidence at trial. M.C. said she returned the contents to the safe after taking the photograph.

¶ 20 Alma’s mother, Giorgoula Tzavara, testified that she first met Petrina and Ilir in August 1995, when they came to her house and told her that Ilir was interested in marrying Alma. During Tzavara’s first conversation with Petrina and Ilir, they told her Alma would own her own home and go to college in the United States if she married Ilir. The following month, Petrina and Ilir returned to Tzavara’s home and met with Tzavara, her parents and her husband. Again, Petrina

and Ilir promised that Alma would own “a wonderful house” and attend college in the United States if she married Ilir.

¶ 21 Tzavara said she talked to Petrina monthly from September 1995 to July 1996. In May 1996, Petrina told Tzavara that Alma was going to own a house with Ilir, and Petrina and Lefter were going to live with them. Petrina sent Tzavara a picture of the house with Ilir, Lefter and Petrina standing in front of it. Tzavara testified that she had to sign a letter giving Alma permission to be legally married in the United States because she was a minor. Tzavara testified that she would not have allowed Ilir to marry Alma if Petrina did not tell her that Alma would own a house. Tzavara testified that in December 1996, Ilir told her that Alma “is the owner of the house.” Tzavara denied ever lying about Alma’s age.

¶ 22 Ilir testified that he had “no clue” why he and his mother went to Alma’s house in Greece in 1995. He denied that he intended to ask Alma to marry him then and denied that there was any conversation about marriage at his first meeting with Alma and Tzavara. Ilir said Tzavara invited him back to her house a week later and asked Ilir to marry Alma. Ilir testified that Tzavara told him Alma was 19 years old.

¶ 23 Ilir denied ever telling Alma or her mother that Alma would own a house and go to college in the United States if she married him. Ilir testified that after his and Alma’s engagement party, he talked to Alma on the phone “[e]very couple weeks” but said he “never talked to her about a house.”

¶ 24 Ilir testified that his parents purchased a house in Carol Stream on May 31, 1996. Ilir testified that he did not know why his parents put his name on the title of the home. He testified that he “never told [Alma] anything about [the] house.” He denied sending Alma a photograph of

the house. When he was shown the photograph of the house Alma and Tzavara testified about, Ilir said, “I don’t know where she get it from.”

¶ 25 Ilir testified that he paid “[n]ot a dime” for the house and repeatedly denied paying any amount toward the down payment. However, when Alma’s counsel showed Ilir a cashier’s check dated April 17, 1996, in the amount of \$5000 listing him as a remitter, Ilir admitted that he paid \$5,000 toward the purchase of the house. On redirect examination, Ilir said his parents immediately paid him back the \$5,000.

¶ 26 Ilir testified that within a few months of moving to the United States, he began working at Wheaton School District and has worked there ever since. He has also worked second and third jobs throughout his marriage. He testified that he gave “[n]ot a dime” to his parents to help pay for the mortgage on the house. Ilir testified that he was named on the mortgage “for my parents to get a lower rate for the mortgage.” He further testified that neither he nor Alma gave any money to Petrina to pay the taxes or mortgage on the house. Ilir admitted that he gave Petrina money for food for himself, Alma and their children.

¶ 27 Ilir testified that in approximately the “[m]id 2000s,” he and Alma decided to begin giving money to his parents to help pay for utilities and other bills. He testified that they paid Petrina by check for 5/7 of the bills every few months. He denied that Petrina kept a ledger of household expenses. Ilir testified that the only upgrades he and Alma made to the house were replacing the furnace and air conditioner, remodeling the master bathroom, and installing crown molding.

¶ 28 Ilir testified that as far as he knew, there was \$40,000 in cash in his home in 2021. Ilir agreed that there were two safes in the home: a gray one and a black one. He testified that both safes were kept in his and Alma’s bedroom closet. He agreed that both safes were still in the house when Alma left on March 31, 2021. Ilir testified that the \$40,000 in cash was kept in the black

safe. He said when he looked in the black safe on April 7, 2021, there was no money and no jewelry in it. When asked about the gold jewelry that M.C. took a picture of on April 17, 2021, Ilir said, “I don’t recognize this. I never seen before this.”

¶ 29 Ilir agreed that he deposited large amounts of cash in his bank account several times in 2021 and 2022, including \$6000 in December 2021, \$3000 in May 2022, \$6000 in June 2022, and \$7000 in July 2022. Ilir testified that those were loans from his family and said he received a total of \$36,100 from his family. Ilir admitted that his financial affidavit did not list any debts to family members.

¶ 30 Petrina testified that she, her son-in-law, and Ilir went to Alma’s house in 1995 to visit Alma’s family. Petrina denied discussing marriage the first time she went to Alma’s house. She testified that after visiting Alma in Greece, she went to Albania to see her family. She denied talking to Alma’s grandfather in Albania. When Petrina and Ilir returned to Greece, Tzavara invited them back to her house. Petrina said Tzavara wanted Alma and Ilir to get married. Petrina denied telling Tzavara that Alma would own a house and go to school in the United States if she married Ilir.

¶ 31 Petrina testified that in April 1996, she began looking for a house to purchase in the United States for herself and Lefter. She said the house was “[n]ot for Ilir, not for Alma.” She agreed that Ilir’s name is on the deed and was on the mortgage. Petrina denied telling Tzavara that Alma owned the house and denied sending a photograph of the house to Alma.

¶ 32 Petrina agreed that she told Alma and Ilir what they owed her at the end of each month but said those payments were only for food and utilities. Petrina agreed that Alma and Ilir paid for new light fixtures, a new furnace and air conditioner, a bathroom remodel, and crown molding. Petrina

testified that she and Hefter paid for a fence, a new roof, a deck, a shed, new windows, hardwood flooring, and refinishing the basement.

¶ 33 Victor Tasho, Ilir's brother-in-law, testified that in 1995, he lived in the same village in Greece as Alma's family. Ilir and Petrina came to visit that year, and he took them to Alma's home. Tasho denied being part of any conversations in which any members of his family made any promises to Alma or her family. He specifically denied being part of any conversations in which Alma was promised a home or a college education.

¶ 34 On November 28, 2022, the trial court issued its opinion. First, the court ruled that Ilir and Alma did not enter into an enforceable oral prenuptial agreement. Next, the trial court considered whether the family home was marital property. The court rejected Alma's contention that the home was marital property. The court also denied Alma's equitable estoppel claim "due to a lack of evidence of injustice or fraud."

¶ 35 The court also examined evidence related to marital contributions to the home and calculated Alma's contributions to be \$64,185.75 based on the evidence she presented. However, the court noted that "[p]roofs of contributions from the Petitioner were mostly incomplete due to lack of availability of old bank records." The court also found the testimony of Petrina and Ilir about Ilir and Alma's contributions not credible, stating it was "clearly not plausible" that Lefter and Petrina could have paid off the mortgage on the home so quickly with only their "meager incomes." The court found it "apparent" that Alma and Ilir "did 'pitch in' on the bills" despite Petrina's and Ilir's testimony otherwise. The court found it reasonable, based on Alma's testimony, that she and Ilir contributed approximately \$1250 monthly for house-related expenses for more than 20 years, totaling over \$300,000. However, the court determined that a reimbursement claim

of more than \$364,185.75 for a house valued at \$425,000 would be “an inequitable resolution of this dispute.”

¶ 36 The court thereafter considered Alma’s promissory estoppel claim and ruled that Ilir’s and his parents’ actions “demonstrate by clear and convincing evidence the elements of promissory estoppel.” The court stated: “As to the ownership of this home, the Petitioner, Respondent, and Respondent’s parents due, to all of this conduct over the last 20 plus years, created an estoppel and caused an implied contract at law and an equitable partnership as to the home ownership.” The court ruled that Alma and Ilir equally own one-half of the value of the home because of “this implied contract.” The court ordered Ilir to pay Alma \$106,250 for her share of the home. Alternatively, the court ordered the home to be sold with each of the four parties receiving 25% of the net proceeds if Ilir is unable to pay Alma \$106,250 within 45 days of the judgment.

¶ 37 After ruling on the home ownership issue, the court made other rulings with respect to maintenance, child support and the division of assets and debts. Regarding the missing jewelry from the safe, the court found “based on the evidence that the Respondent took possession of those items when Petitioner left the home.” Therefore, the court ordered Ilir to return them to Alma or, alternatively, to pay her \$5700 within 30 days of its judgment.

¶ 38 Finally, with respect to the cash missing from the safe, the court determined that “the Respondent did obtain the \$40,000 in cash and the \$5,000, which was child’s money when the Petitioner left the home.” The court ordered Ilir to return \$5000 to M.C. and pay Alma \$20,000.

¶ 39 All parties filed motions to reconsider. The trial court denied the motions filed by Alma, Petrina and Hefter. The court denied most of Ilir’s motion but granted it with respect to a child support issue not relevant to this appeal. Thereafter, Ilir filed a notice of appeal, and Alma filed a cross-appeal.

¶ 40

ANALYSIS

¶ 41

I. Promissory Estoppel

¶ 42

Ilir first argues that the trial court erred in granting Alma a one-fourth interest in the house based on promissory estoppel. He contends that Alma failed to establish the existence of an unambiguous promise. He further contends that the statute of frauds precludes the trial court's ruling and that the court had no basis to grant Alma a one-fourth interest in the house as damages for her claim of promissory estoppel. Alma responds that the trial court properly found that she proved all the elements of promissory estoppel and, alternatively, argues that if promissory estoppel does not apply, she is entitled to ownership in the house (1) pursuant to the Illinois Marriage and Dissolution of Marriage Act because the house was acquired in contemplation of marriage, or (2) based on equitable estoppel.

¶ 43

A. Elements

¶ 44

Illinois recognizes promissory estoppel as an affirmative cause of action. *Newton Tractor Sales, Inc. v. Kubota Tractor Corp.*, 233 Ill. 2d 46, 59 (2009). It is an available theory in the absence of a contract. *Id* at 52. "Although there may be absent a bargained-for consideration, a person who makes a promise may nonetheless be bound by its terms." *Bank of Marion v. Robert "Chick" Fritz, Inc.*, 57 Ill. 2d 120, 124 (1974). A promise "may give rise to an estoppel when the promisee's reliance on the promise is 'foreseeable and reasonable and involves a definite and substantial change of position which would not have occurred if the promise had not been made.'" *Hux v. Woodcock*, 130 Ill. App. 3d 721, 724 (1985) (quoting Restatement (Second) of Contracts § 90, comment f, at 246-47 (1981)).

¶ 45

"The elements of promissory estoppel are (1) an unambiguous promise; (2) reliance on such promise by the promisee; (3) the promisor expects and foresees such reliance; and (4) the

promisee relies on the promise to her injury.” *In re Marriage of Schmidt*, 292 Ill. App. 3d 229, 240 (1997). Whether all the elements of promissory estoppel exist is a question of fact to be determined by the trial court, and a reviewing court will not reverse the trial court’s decision unless it is against the manifest weight of the evidence. *Centro Medico Panamericano, Ltd. v. Benefits Management Group, Inc.*, 2016 IL App (1st) 151081, ¶ 25. A decision is against the manifest weight of the evidence when it is unreasonable, arbitrary or not based on the evidence. *Cadle Properties of Illinois, Inc., v. Fortune Investments, LLC*, 2021 IL App (1st) 200556, ¶ 23. This standard gives great deference to the trial court because it is in “a superior position to determine and weigh the credibility of witnesses, observe witnesses’ demeanor, and resolve conflicts in their testimony.” *Wade v. Stewart Title Guaranty Co.*, 2017 IL App (1st) 161765, ¶ 59. “The determination of all issues regarding the credibility of the parties *** or the weight to give the evidence lies with the trier of fact.” *In re Marriage of Werries*, 247 Ill. App. 3d 639, 642 (1993). Such determinations made by the trier of fact are given great deference by reviewing courts. *In re Marriage of McHenry*, 292 Ill. App. 3d 634, 641 (1997).

¶ 46 A claim for promissory estoppel can be asserted where (1) the defendant promises to provide an ownership interest in real estate to the plaintiff in exchange for something from the plaintiff, (2) the plaintiff performs, and (3) the defendant does not keep his promise to give the plaintiff an ownership interest in the property. See *Hux*, 130 Ill. App. 3d at 724-25; see also *Rigsby v. Rigsby*, 149 S.W.3d 318, 323 (Ark. 2004) (applying promissory estoppel to award son one-half interest in farm property where father told son property would belong to him and son made improvements on property in reliance on promise); *Salatino v. Salatino*, 13 A.D. 3d 512, 513 (N.Y. App. Div. 2004) (holding daughter had viable claim for promissory estoppel against father where

father said he was conveying one-half of properties to her and she invested time and money managing and maintaining properties).

¶ 47 Here, the trial court's determination that Alma satisfied all elements of promissory was not against the manifest weight of the evidence. First, Alma established the existence of an unambiguous promise by Ilir that she would have ownership in a home if she married him. While Ilir and Petrina denied that Ilir made any such promise, the trial court found Alma to be more credible than Ilir and Petrina, and we defer to those credibility determinations. See *Marriage of McHenry*, 292 Ill. App. 3d at 641. Next, Alma established her reliance on the promise by testifying that she would not have married Ilir and contributed to household expenses if she knew she did not have an ownership interest in the home. Additionally, Alma established that Ilir expected and foresaw that she would rely on his promise of home ownership to convince her to marry him and contribute to the household expenses. Finally, Alma established that she was injured by her reliance because she paid for taxes, improvements, and expenses for the house believing that she had an ownership interest in it and testified that she would not have paid household expenses if she knew she had no ownership interest in the home and would have purchased a different property that she would own and build equity in. While Ilir and Petrina denied that Alma or Ilir contributed to the household expenses, the trial court found that testimony unbelievable, and we defer to the trial court's findings on that issue. See *id.*

¶ 48 Based on Alma's testimony, which the trial court found credible, the evidence established that (1) Ilir promised Alma that she would have an ownership interest in a home in exchange for her marrying him, (2) Alma performed her end of the bargain by marrying Ilir and paying for improvements and expenses for the home, and (3) Ilir did not keep his promise to give Alma an

ownership interest in the home. Thus, Alma adequately proved all the elements necessary for her promissory estoppel claim. See *Hux*, 130 Ill. App. 3d at 724-25.

¶ 49 B. Statute of Frauds

¶ 50 Ilir argues that even if Alma proved the necessary elements of promissory estoppel, her claim is barred by the statute of frauds.

¶ 51 The statute of frauds requires agreements “made upon consideration of marriage” or “not to be performed within the space of one year of the making thereof” to be in writing. 740 ILCS 80/1 (West 2022). Promissory estoppel does not bar the application of the statute of frauds. *McInerny v. Charter Golf, Inc.*, 176 Ill. 2d 482, 492 (1997).

¶ 52 The statute of frauds is an affirmative defense that must be raised in the defendant’s answer. 735 ILCS 5/2-613(d) (West 2022). The purpose of this rule is to prevent unfair surprise to the plaintiff. *Harvey v. McKinney*, 221 Ill. App. 3d 140, 142 (1991). If a defendant fails to plead the statute of frauds in his answer, he waives the defense. *Id.*; *Pelz v. Streator National Bank*, 145 Ill. App. 3d 946, 951 (1986); *Spagat v. Schak*, 130 Ill. App. 3d 130, 134 (1985).

¶ 53 Here, neither Ilir nor his parents raised the statute of frauds as an affirmative defense in their answers to Alma’s supplemental complaint. Thus, they have waived the statute of frauds as a defense.

¶ 54 C. Damages

¶ 55 Ilir also argues that the trial had no authority to grant equitable relief to Alma in the form of a one-fourth interest in the house as damages for promissory estoppel.

¶ 56 Under promissory estoppel, a plaintiff is entitled to recover “those damages suffered as a result of justifiably relying on the other party’s promise.” *Newton Tractor Sales*, 233 Ill. 2d at 58. A plaintiff should be restored “to the position he was in prior to relying, to his detriment, on the

promise.” *Id.* at 59. When determining the amount of recoverable damages for a claim of promissory estoppel, the court should consider what “is necessary to do complete justice.” *Gold v. Dubish*, 193 Ill. App. 3d 339, 350 (1989). Where a plaintiff successfully proves a claim for promissory estoppel, specific performance is a possible equitable remedy. See *Benton v. Little League Baseball, Inc.*, 2020 IL App (1st) 190549, ¶ 40.

¶ 57 A court’s jurisdiction in a dissolution of marriage action is conferred only by statute, and it must act within the statutory grant and may not rely upon its general equitable powers. *In re Marriage of Foran*, 225 Ill. App. 3d 756, (1992) (citing *In re Marriage of Garrison*, 99 Ill. App. 3d 717, 720 (1981) and *Strukoff v. Strukoff*, 76 Ill. 2d 53, 60 (1976)). However, “[i]rrespective of empowering statutes, a court retains its traditional equitable powers.” *Smithberg v. Illinois Municipal Retirement Fund*, 192 Ill2d 291, 298 (2000). All courts have inherent equitable power, derived from the historic power of equity courts, that the legislature cannot take away. *Id.*

¶ 58 A trial court possesses inherent authority to grant equitable relief in conjunction with a petition for dissolution of marriage. *In re Marriage of Fahy*, 208 Ill. App. 3d 677, 691 (1991); *In re Marriage of Weinstein*, 128 Ill. App. 3d 234, 245 (1984) (citing *Robinson v. Robinson*, 100 Ill. App. 3d 437, 444 (1981)). Courts have considered claims based on equitable principles, including equitable estoppel, in dissolution of marriage actions. See *In re Marriage of Hodges*, 2018 IL App (5th) 170164, ¶ 29; *In re Marriage of Schlam*, 271 Ill. App. 3d 788, 794 (1995); *In re Marriage of McBride*, 166 Ill. App. 3d 504, 514 (1988).

¶ 59 Based on the foregoing, we disagree with Ilir’s contention that the trial court lacked authority to grant Alma equitable relief on her claim of promissory estoppel. We further find that the trial court did not err in granting Alma a one-fourth interest in the home.

¶ 60 The trial court carefully considered the relief that Alma was entitled to as a result of her successful promissory estoppel claim. The court determined that Alma established that she and Ilir contributed approximately \$364,185.75 toward home expenses and improvements while living in the home but found that awarding such an amount to Alma would be “inequitable.” The court then determined that based on the promise Ilir made to Alma and the conduct of the parties over a course of more than 20 years, the proper remedy was for the court to grant Alma a one-fourth interest in the home. Based on the circumstances of this case, it was reasonable for the trial court to determine that the only remedy that would “do complete justice” to Alma was granting her an ownership interest in the home that Ilir promised her many years ago. See *Gold*, 193 Ill. App. 3d at 350; *Benton*, 2020 IL App (1st) 190549, ¶ 40; see also *Rigsby*, 149 S.W.3d at 323 (plaintiff granted one-half interest in farm property based on promissory estoppel).

¶ 61 Because we find that Alma proved her claim for promissory estoppel, we need not consider the arguments raised in Alma’s cross appeal, asking us to affirm the trial court’s judgment for other reasons.

¶ 62 II. Missing Property

¶ 63 Ilir additionally argues that the trial court erred in finding that he took \$40,000 in cash and Alma’s jewelry from one or more safes in the home. He contends that there was conflicting testimony about what happened to those items, and the trial court should not have believed Alma’s testimony.

¶ 64 Whether a party is responsible for taking marital assets and using them for his sole benefit is generally a question of fact, and the trial court’s findings will not be disturbed unless they are contrary to the manifest weight of the evidence. *In re Marriage of Seversen*, 228 Ill. App. 3d 820, 824 (1992). Where the facts are disputed, the credibility of witnesses and the weight to be given

their testimony are matters for the trial court. *Id.* Determinations of the trial court regarding credibility, as the entity closest to the litigation and the trier of fact, are given great deference and there is a strong presumption the trial court made the right decision. *In re Marriage of McHenry*, 292 Ill. App. 3d 634, 641 (1997).

¶ 65 A. Jewelry

¶ 66 Our review of the record does not support Ilir’s argument that the trial court erred in determining that he took Alma’s jewelry.

¶ 67 Alma testified at trial that she was missing earrings, a necklace, a bracelet and a ring, which she kept in the safe in her bedroom closet. Alma testified that the jewelry was in the safe when she left the house on March 31, 2021, but was not there when she returned to the house with a police escort in late April 2021. Alma testified that she was never in the house alone after March 31, 2021.

¶ 68 Alma’s testimony is supported by M.C.’s testimony and the evidence she presented at trial. MC. testified that when she looked inside the safe on April 17, 2021, she saw Alma’s jewelry along with other items. M.C. testified that she took a photograph of the jewelry and then returned it to the safe. That photograph was admitted into evidence at trial.

¶ 69 At trial, Ilir testified when he looked in the black safe on April 7, 2021, there was no jewelry in it. When asked about the jewelry in the photograph M.C. took on April 17, 2021, Ilir responded, “I don’t recognize this. I never seen before this.”

¶ 70 Based on the evidence presented, the trial court’s finding that Ilir had Alma’s jewelry was not against the manifest weight of the evidence. The trial court found Alma’s testimony credible, and based on Alma’s testimony, found that Ilir took the jewelry that was in the safe. We find no

reason to call into question the trial court’s credibility determinations. See *Marriage of McHenry*, 292 Ill. App. 3d at 641.

¶ 71 B. Cash

¶ 72 We likewise find no support for Ilir’s argument that the court erred in finding that he took \$40,000 in cash from a safe in the home.

¶ 73 Alma testified that when she left the home on March 31, 2021, there was \$40,000 in cash in a gray safe located in her and Ilir’s bathroom. The next time Alma went inside the house, in late April 2021, the gray safe was locked, and she could not access it because the key to the safe was not in the drawer where she kept it. Alma testified that when he asked Ilir about the \$40,000, she said he said “in a sickening sweet tone ‘I don’t know anything about it.’ ” Alma testified that she was never alone inside the home after March 31, 2021. Alma also presented evidence that Ilir made deposits totaling more than \$36,000 into his bank account after she left the house. While Ilir testified that those payments were loans from family members, he admitted that he did not list any loans on his financial affidavit.

¶ 74 Ilir testified that as far as he knew there was \$40,000 in cash in a safe in the home on March 31, 2021, but said it was in the black safe. He further testified that when he opened the black safe on April 7, 2021, there was nothing in it.

¶ 75 Based on the evidence presented at trial, the trial court’s finding that Ilir took the \$40,000 was not against the manifest weight of the evidence. The record established Alma had no access to the home after she moved out on March 31, 2021, but that Ilir had exclusive access to the home, including the safes and their contents. We defer to the trial court’s credibility determinations and agree with the trial court’s determination that Alma provided sufficient evidence to establish that Ilir took \$40,000 in cash from the home.

¶ 76

CONCLUSION

¶ 77

The judgment of the circuit court of Du Page County is affirmed.

¶ 78

Affirmed.