

# THE *INTERCYZA* OR PRENUPTIAL CONTRACT

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The prenuptial contract, generally called *intercyza* in Polish (from Latin *intercisa*, "settlement") was drawn up in the office of a notary in the presence of the betrothed couple and their witnesses. It was a legal form regulating the personal and property relationship of the future spouses, and was in use throughout the territory of the Kingdom of Poland. These contracts were most often drawn up shortly before the wedding day, usually at the nearest notary's office. Contracts between people getting married for the first time were, as a rule, negotiated by their parents or their legal guardians at the engagement stage.

In the light of my long practice, I estimate that at least ten percent of marriages involved such an agreement, and the reason was to secure property and its division in ways differing from those by statute. As a rule, these contracts were drawn up among the wealthiest level of society, regardless of religion and status, although they were most popular among the nobles and aristocracy.

The prenuptial contract consisted of at least three large-format pages. The contract number, the name of the office, the address, and the date of the contract are listed at the top. Also specified are the legal parties involved in the legal activities:

1. personal details of the fiancé.
2. personal details of the fiancée;
3. witnesses representing the fiancé;
4. witnesses representing the fiancée.

Only then do we come to the content of the contract in question. There is usually a detailed description of the bride's dowry, the groom's resources, and the form of property secured. The most frequently mentioned are:

- Real estate (land, buildings)
- Livestock (domestic animals), and
- Movable property (jewelry, wardrobe, home furniture, money).

Last come are the signatures of all present, with the receipt for fees and legal seals.

Receiving a dowry was tantamount to renouncing the right to inherit from the parents. On the other hand, the groom's obligations usually concerned the acknowledgment of the dowry and securing its value on his goods. Another standard in the contract was the obligation that all goods owned before the wedding and resulting from future succession or donation are to remain intact and separate and not become part of the communal property created during the marriage. The agreements also took into account the unexpected death of one of the spouses, in which case the rights of the surviving spouse were detailed, or the appropriate article of the Civil Code was referred to. For instance, if the wife suddenly died and left no surviving children, then the widower would inherit only part of property included as the dowry. The rest would be secured for the family of the deceased wife.

The question arises: How can we find out whether our ancestors made such a contract? If they came from the territory of the Russian partition, we find that information in the wedding records themselves. At the end of each record there is a standard statement: the spouses have or have not

entered into a prenuptial contract. No doubt you have seen these statements, usually worded something like *Małżonkowie nowi oświadczają, iż umowy przedślubnej nie zawarli*; or in Russian, *Новобрачные объявили что они никакого договора предбрачного между собою не заключили*. Both mean “The newlyweds stated that they made no prenuptial contract.”

If they did draw up a contract, the following information is provided:

- When and where executed
- Name of the notary
- Contract number.

With this knowledge, we can find the contract in the archives. We will search the list of notaries in the Sezam database; or we may send a query to the regional archives giving the year, place and name of the notary.

Marriage records within the Prussian and Austrian partitions did not contain a notation about prenuptial agreements. If we have any reason to believe there was such an agreement, we can try browsing the notaries’ record books. In the state archives, a lot of the notaries’ records survived despite the war and many of them are indexed.

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