

2023 IL App (1st) 22-0450-U

No.1-22-0450

March 31, 2023

SIXTH DIVISION

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

In re the Marriage of:)	
)	
MICHELLE REYNOLDS aka Michelle Hanson,)	Appeal from the Circuit Court
)	of Cook County.
Plaintiff-Appellant,)	
)	
v.)	No. 2000D009380
)	
CHRISTOPHER REYNOLDS,)	The Honorable
)	Matthew Link,
Defendant—Appellee.)	Judge, presiding.

JUSTICE ODEN JOHNSON delivered the judgment of the court.
Presiding Justice Mikva & Justice C.A. Walker concurred in the judgment.

ORDER

Held: Affirmed

¶ 1 The trial court did not err when it found 1) that the husband had not breached an agreed order by not paying statutory interest where the agreed order was silent about statutory interest and, 2) that the wife had not waived her right to said interest and, thus, ordered the husband to pay that amount separately.

¶ 2 Michelle Reynolds, who is now known as Michelle Hanson (the wife), appeals on the ground that the trial court erred when it found that her former husband, Christopher Reynolds (the husband) had not breached an agreed order. Before the trial court and now before us on appeal, she argues that he breached their agreed order by not paying statutory interest, although the agreement itself was silent about statutory interest. After an evidentiary hearing at which the trial court found no breach of the agreed order by the husband, the trial court also found that, although the interest was not mentioned in their agreement, the wife had not waived her right to it and, thus, the trial court ordered the husband to pay that amount separately.

¶ 3 Only the wife appeals the February 28, 2022, order, and we took this appeal on her brief only. Thus, the only issue before us is whether the trial court erred by finding that the husband did not breach their agreement. The second finding—that the husband is required to pay the interest separately—is not an issue on this appeal. Upon review of the record, we can find no error in the trial court’s conclusion that the husband did not breach their agreement where the agreement itself was completely silent about the allegedly breached term. Therefore, we affirm.

¶ 4 BACKGROUND

¶ 5 The parties were divorced in the Circuit Court of Cook County on February 5, 2003. Since that time there has been extensive litigation between the parties, and another appeal between them is pending before this court. *Reynolds v. Hanson*, No. 1-21-1324. The instant appeal concerns an agreed order that the trial court entered on August 22, 2019, and which provides, in relevant part:

“3. A judgment is entered in favor of [the wife] and against [the husband] in the amount of thirty-five thousand dollars (\$35,000). Said judgement is *** a compromised amount from the amount claimed in Michele’s First Amended Petition of Attorney’s Fees and Costs pursuant to section 508(b).

4. [The husband] will pay to [the wife] \$1,700.00 (one thousand seven hundred dollars) per month by the first day of each month commencing in October of 2019 in satisfaction of said judgment. ***

5. If [the husband] is more than seven (7) days late on any payment of \$1,700.00 pursuant to this order, then the compromised amount of \$33,798.92 (thirty three thousand seven hundred ninety-eight dollars) will be automatically added to the then existing judgment balance of this judgment as provided in paragraph 3 above and the Court will enter a subsequent judgment for the entire balance due. The parties agree that the terms of this paragraph are to be strictly construed.”

Under the above agreement, the husband owed the wife \$35,000, and he agreed to pay her \$1,700 per month until it was paid off. If he was more than a week late “on any payment of \$1,700” then he had to pay her \$33,798.92 *plus* the balance still owed. Any late payment would thereby increase his total payment to \$68,798.92, which was the original \$35,000 owed plus a \$33,798.92 penalty.

¶ 6 In her brief to this court, the wife concedes that the husband “made timely monthly payments of \$1,700.00 pursuant to the Agreed Order through May of 2021.” She further acknowledges that the husband made a final payment of \$215.39 on June 6, 2021, and that, with that June 2021 payment, “[t]he total amount credit[ed] to, and paid by, [the husband] toward the \$35,000.00 money judgment as of June 6, 2021 is \$35,000.00.”

¶ 7 On July 21, 2021, the wife filed a motion for entry of judgment for (1) \$3,151.84, the amount she claimed as a result of the husband’s alleged nonpayment of statutory interest, *plus* (2) \$33,798.92, the penalty amount named in the August 2019 agreement. The wife also filed a petition for rule to show cause as to why the husband should not be held in civil contempt. On September 20, 2021, the trial court held an evidentiary hearing via zoom on the wife’s motion and petition. After the hearing, the trial court took the matter under

advisement and issued a detailed memorandum order on October 19, 2021, with its written findings and conclusions of law.

¶ 8 In its written order, the trial court found the husband “timely made periodic monthly payments” to the wife totaling \$35,000 in accordance with the Agreed Order.” The trial court further found that, “[f]ollowing her receipt of the final payment tendered by [the husband] on June 6, 2021 of \$215.39, [the wife] notified [the husband] that he owed her an additional \$1,484.61 that month.” \$1,484.61 plus \$215.39 equals \$1,700, which is the amount he had been paying per month. The wife explained that she had applied the payments received from the husband “first to interest and then to principal.” The trial court observed that, “[a]ccording to [the wife], as of June 7, 2021, the remaining principal balance due on the original \$35,000 judgement was \$3,151.84.” The husband responded “that he had fulfilled his obligation to pay \$1,700.00 per month in satisfaction of the \$35,000.00 judgment for attorney’s fees.”

¶ 9 The trial court found both (1) that the husband had not breached the express terms of the agreed order, and (2) that the wife did not waive her right to statutory interest. As we noted above, only the first finding is at issue on this appeal, since the husband did not appeal and we took this appeal on the wife’s, brief only. With respect to her motion for entry of judgment, the trial court denied it in part and granted in part. It denied the amount that she requested, but granted her judgment in the amount of \$3,151.84, which was the amount that she claimed was still owed as of June 7, 2021.

¶ 10 On November 18, 2021, the wife filed a motion to reconsider. The trial court denied her motion on February 28, 2022, in a written order that indicated that the parties had appeared before the trial court via zoom. At the zoom hearing on February 28, a transcript of

which appears in the record, the husband stated: “I was willing to accept whatever the 3,000 and some order[ed] dollars I was supposed to pay, then move forward.” The husband appeared *pro se* at the February 28 hearing, as he had at the August 22, 2019, hearing when the agreed order was entered and at the September 20, 2021, evidentiary hearing concerning the alleged breach. The February 28, 2022, order stated that it was a final and appealable order with no just reason to delay enforcement or appeal.

¶ 11 The wife filed a timely notice of appeal on March 30, 2022, and this court took the appeal on her brief only on November 16, 2022. This appeal followed.

¶ 12 ANALYSIS

¶ 13 For the following reasons, we cannot find that the trial court erred when it found that the husband did not breach the agreed order.

¶ 14 I. Agreed Order

¶ 15 An agreed order, entered by the trial court, is “not an adjudication of the parties’ rights but, rather, a record of their private, contractual agreement.” *Commonwealth Edison Co. v. Elston Avenue Properties, LLC*, 2017 IL App (1st) 153228, ¶ 13. It is “more akin to a settlement than a judicial determination.”¹ *Centrue Bank v. Voga*, 2020 IL App (2d) 190108, ¶ 29; *In re Marriage of Baecker*, 2012 IL App (3d) 110660, ¶ 25. As a result, agreed orders are “controlled by the law of contracts.” *Commonwealth Edison*, 2017 IL App (1st) 153228, ¶ 13. Like other contracts, agreed orders are construed “to give effect to the parties’ intentions.” *Commonwealth Edison*, 2017 IL App (1st) 153228, ¶ 13. The parties’ intentions

¹ An agreed order is generally not subject to appellate review, since it is a settlement agreement between the parties, rather than a judicial determination of the parties’ rights. *Centrue Bank*, 2020 IL App (2d) 190108, ¶ 29; *Baecker*, 2012 IL App (3d) 110660. However, in the case at bar, the appellant does not challenge the validity of the settlement agreement itself, but rather the trial court’s orders enforcing it.

are determined from the plain language of the order itself, so long as “there is no ambiguity” in its terms. *Commonwealth Edison*, 2017 IL App (1st) 153228, ¶ 13.

¶ 16 However, “[a]n ambiguity does not exist simply because the parties disagree as to the meaning of a contractual provision.” *Ringgold Capital IV, LLC v. Finley*, 2013 IL App (1st) 121702, ¶ 19. Rather, an ambiguity exists when the language is “susceptible to more than one reasonable interpretation.” *Ringgold Capital*, 2013 IL App (1st) 121702, ¶ 19. If the language is susceptible to more than one meaning, then a court may consider evidence extrinsic to, or outside of, the contract itself in order to ascertain the parties’ intent. *Gallagher v. Lenart*, 226 Ill. 2d 208, 233 (2007).

¶ 17 II. Standards of Review

¶ 18 The standards of review that this court must apply on this appeal are well-established and oft-stated.

¶ 19 Questions of law, such as contract interpretation, are reviewed *de novo*; but any resolutions of disputes in testimony or fact, are reviewed under a manifest weight standard. *Commonwealth Edison*, 2017 IL App (1st) 153228, ¶ 12. *De novo* review means that an appellate court performs the same analysis that a trial judge would perform, owing no deference to the trial court. *People v. Harris*, 2022 IL App (1st) 192509, ¶ 19. In contrast, a decision is against the manifest weight of the evidence only when an opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary, or not based on the evidence. *Soucek v. Breath of Life Professional Services, NFP*, 2021 IL App (1st) 210413, ¶ 79.

¶ 20 III. Not Ambiguous

¶ 21 The wife argues on appeal that the agreed order is not ambiguous. The trial court did not find it ambiguous, and we agree. In its written order, dated October 19, 2021, the trial court found that “the parties’ Agreed Order is silent regarding any obligation on the part of [the husband] to pay [the wife] postjudgment interest.” The wife does not, and cannot, point to any spot in the agreed order that refers to interest.

The terms of the agreement, quoted above, are fairly straight forward. The husband owes the wife \$35,000. He must pay her \$1,700 per month until this amount is paid off. If he is more than a week late “on any payment of \$1,700” then he must pay her \$33,798.92 *plus* the balance still owed. The agreement is completely silent about interest. When interpreting a contract, “we will not add language or matters to a contract about which the instrument is silent.” *Empress Casino Joliet Corp. v. W.E. O’Neil Construction Co.*, 2016 IL App (1st) 151166, ¶ 62; *In re Marriage of Solecki*, 2020 IL App (2d) 190381, ¶ 65. Thus, we cannot find a breach, where the agreement did not contain the allegedly breached term.

¶ 22 CONCLUSION

¶ 23 The wife argues on appeal that the agreed order is not ambiguous, and we agree. For the foregoing reasons, we cannot find that the trial court erred in concluding that the husband did not breach their agreement when he paid the full amount as expressly stated in the agreed order.

¶ 24 Affirmed.