

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>AR, JR.</b>		:	<b>NO. 13-21,710</b>
	<b>Plaintiff</b>	:	
		:	
	<b>vs.</b>	:	
		:	
<b>TR,</b>		:	
	<b>Defendant</b>	:	<b>IN DIVORCE</b>

**OPINION & ORDER**

**AND NOW**, this **21<sup>st</sup>** day of **March, 2014**, this order is entered after a hearing held on March 10<sup>th</sup>, 2014 regarding Husband’s Petition for Special Relief/ Petition to Enforce Agreement filed December 16<sup>th</sup>, 2013. Present at the hearing was Husband, AR, with his counsel Christina L. Dinges, Esquire and Wife, TR, with her counsel Heather Willis, Esquire.

***Background***

Husband and Wife met with an attorney multiple times in 2013 to discuss divorce and a Property Settlement Agreement. The parties negotiated for a period of time. Eventually the parties came to an agreement whereby the parties would deed their Pepper Street Property into Wife’s name alone; the parties would deed their Heberling Street property into Husband’s name alone. Husband was to pay wife certain sums of money. The total sum of money was \$58,000.00. Certain vehicles would be transferred. Additionally, Husband agreed to help construct the Pepper Street property. Husband was

to work 20 hours per week and be paid by Wife ten dollars per hour worked. The parties agreed how their household property would be divided.

On May 30<sup>th</sup>, 2013 Husband paid to Wife \$40,000.00. Wife accepted said payment. On July 24<sup>th</sup>, 2013 Husband paid to Wife \$15,000.00. Husband by signed agreement of the parties dated July 24<sup>th</sup>, 2013 withheld a \$3,000.00 payment to Wife to compensate Husband for the work he had performed at the Pepper Street residence. Wife accepted said payment. Husband and Wife executed a deed placing the Heberling property in Husband's name alone on July 24<sup>th</sup>, 2013. The parties executed a deed placing the Pepper Street property in Wife's name alone that same date. Husband signed over the title to Wife's Mercedes on August 14<sup>th</sup>, 2013 and a motorcycle on August 14<sup>th</sup>, 2013. Husband worked on the Pepper Street property from May 29<sup>th</sup>, 2013 through September 13<sup>th</sup>, 2013.

The parties' attorney prepared several written drafts of the Property Settlement agreement. On August 10<sup>th</sup>, 2013 Wife emailed the parties' attorney. She expressed concerns with how Husband was performing the work on the Pepper Street residence. She did not express concern with any essential term of the contract. No written contract was ever signed by the parties. In November 2013, Wife sought and was granted a Temporary Protection From Abuse Order. In Wife's allegations she references the parties' "divorce agreement".

***Analysis***

"[t]he determination of marital property rights through prenuptial, postnuptial and settlement agreements has long been permitted, and even encouraged." *Sabad* [v. Fessenden], 2003 PA Super 202, 825 A.2d [682,] 686 [(Pa. Super. 2003)] (quoting

*Laudig v. Laudig*, 425 Pa. Super. 228, 624 A.2d 651, 653 (1993)). Both prenuptial and post-nuptial agreements are contracts and are governed by contract law. *Laudig, supra*. A contract is formed when (1) there is an offer and acceptance; i.e. a mutual understanding manifesting an intent by the parties to be bound by the terms of the agreement, (2) the terms of their bargain are shown with sufficient clarity and (3) there is an exchange of consideration. *Weaverton Transp. Leasing v. Moran*, 2003 PA Super 385, 834 A.2d 1169, 1172 (Pa. Super. 2003)

A property settlement agreement is enforceable by utilizing the same rules of law used in determining the validity of contracts. *Lipschutz v. Lipschutz*, 391 Pa.Super. 537, 571 A.2d 1046 (1990). It is established law in this Commonwealth that parties may bind themselves contractually prior to the execution of a written document through mutual manifestations of assent, even where a later formal document is contemplated. *Krause v. Great Lakes Holdings, Inc.*, 387 Pa.Super. 56, 563 A.2d 1182 (1989), *appeal denied*, 524 Pa. 629, 574 A.2d 70 (1989). The intent of the parties to be bound is a question of fact which must be determined by the fact finder. *Johnston v. Johnston*, 346 Pa.Super. 427, 499 A.2d 1074 (1985). As long as the oral agreement contained the essential terms of the marital settlement, it could be enforced, despite the fact that additional terms were to be added to embellish the agreement when it was reduced to writing. *Id.*; *Johnston, supra*. Where parties have reached an oral agreement, the fact that they intend to reduce the agreement to writing does not prevent enforcement of the oral agreement. *Kazanjian v. New England Petroleum Corporation*, 332 Pa.Super. 1, 480 A.2d 1153 (1984).

The parties at issue intended and did reach an agreement that resolved their property issues. A contract was formed by the agreement that laid out all of the essential terms of settlement. Husband offered a clear resolution by which each party would retain a property, he would retain the Heberling Street Property while Wife retained the Pepper Street property. Husband would work at the Pepper Street property and the household items and vehicles would be divided. The consideration Husband offered Wife was a sum of \$58,000.00 from his separate estate. Wife accepted the sums of money and proceeded to transfer title of the various properties. Both Husband and Wife proceeded to substantially carry out the terms of the contract. The issues Wife raised concerning Husband's work on the Pepper Street property are enforcement in nature. The fact that Wife raises issues of enforcement confirms this Court's belief a contract was formed. Husband's testimony was credible regarding the terms of the contract and the substantial steps taking to fulfilling said contract. The evidence supports Wife's intention to be bound by the term of the contract.

### ***Conclusion***

The Court finds that Husband did meet the burden of proof by a preponderance of the evidence that the agreement should be enforceable. The Court finds that Husband and Wife, after some negotiation reached an agreement. The parties then proceeded to execute at least in part every essential term of the agreement. Husband's Petition for Special Relief and Enforcement is **GRANTED**. The agreement remains in full force and effect.

BY THE COURT,

Joy Reynolds McCoy, Judge