

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

<b>KIM FRYE,</b>	:	
<b>Plaintiff</b>	:	<b>NO. FC-20-20355</b>
	:	
<b>vs.</b>	:	
	:	
<b>JOHN FRYE,</b>	:	<b>PETITION TO SET ASIDE</b>
<b>Defendant</b>	:	

**OPINION**

**I. Procedural and Factual History**

The parties to this action are Husband and Wife. Both parties signed a document dated May 4, 2020 titled Separation and Property Settlement Agreement [hereinafter “Agreement”]. Wife subsequently presented to Husband a document entitled “Addendum to Separation and Property Settlement Agreement” as well as an untitled two page, typewritten document containing calculations. Husband did not sign either of these documents. Husband filed a Petition to Set Aside the Property Settlement Agreement on July 29, 2020 and a hearing was held on August 20, 2020.

During the hearing, Husband testified that he did in fact sign the Separation and Property Settlement Agreement and only briefly reviewed it but never read it. He also admitted that he was supposed to take the document to his attorney for review but decided not to do so because he “just wanted to get out of town.” Husband asserts that the parties continued to discuss the division of their

property even after the Agreement was signed and that there is still no resolution of the divorce matter.

Within the Agreement that Husband signed are the following provisions:

Wife has sought the advice of Jason W. Lepley, Esquire and Husband has chosen not to seek the advice of legal counsel. Each party is fully satisfied with the agreement, fully understands the facts underlying the agreement, have been adequately informed per his or her choosing, as to his or her legal rights and obligations and that having had such advice or knowledge and being satisfied therewith each of them is signing the same freely and voluntarily. See Agreement at Paragraph 16.

The parties respectively acknowledge . . . that they are agreeing to the division of property as set forth in this Agreement, with full knowledge and understanding of the actual values that they are receiving. See Agreement at Paragraph 17.

The terms and provisions of the within Agreement shall extend to and be binding upon the parties . . . . See Agreement at Paragraph 19.

This Agreement contains the entire understanding of the parties and there are no representations, warranties, covenants or undertakings other than those expressly set forth herein. See Agreement at Paragraph 30.

Husband also signed underneath the following statement: "I have chosen to sign this document without seeking assistance from any other counsel at this time. I am not signing this document under pressure or any duress. I understand that it is a binding agreement and will be entered into my final divorce decree as an Order of Court." See Agreement at unnumbered page 12. The Agreement does allow for modifications if those modifications are in writing. See Agreement at Paragraph 14.

## II. Legal Principles and Analysis

It is well-settled in Pennsylvania that, in a divorce action, a husband and wife are free to enter into agreements regarding their property rights. See 23 Pa.C.S.A. § 3105; *Ford v. Ford*, No. 01-11545 (C.P. Delaware June 20, 2013). “[T]he paramount goal of contract interpretation is to ascertain and give effect to the parties' intent.” *Bianchi v. Bianchi*, 859 A.2d 511, 515 (Pa.Super.2004), *citing Lang v. Meske*, 850 A.2d 737, 739 (Pa.Super.2004). Property settlement agreements are presumed to be valid and binding upon the parties. *McGannon v. McGannon*, 359 A.2d 431, 433 (Pa. Super. 1976), *citing Ratony Estate*, 277 A.2d 791, 794 (Pa. 1971). The party seeking to set aside the agreement has the burden of proving the invalidity of the agreement by clear and convincing evidence. *Id.*

Property settlement agreements are interpreted in accordance with traditional principles of contract law. *Cooper v. Oakes*, 629 A.2d 944, 946 (Pa. Super. 1993). Pennsylvania law that not require a property settlement agreement to be witnessed or notarized. Parties to the agreement are bound **absent fraud, misrepresentation or duress**. *Simeone v. Simeone*, 581 A.2d 162, 165 (Pa. 1990) (emphasis added). They are bound “**without regard to whether the terms . . . were read and fully understood** and irrespective of whether the agreements embodied reasonable or good bargains.” *Id.* See also *Standard Venetian Blind Co. v. American Empire Insurance Co.*, 469 A.2d 563, 566 (Pa. 1983) (holding that failure to read a contract does not warrant avoidance or nullification of its provisions); *Montgomery v. Levy*, 177 A.2d 448, 450 (Pa. 1962)

(holding that one is legally bound to know the terms of the contract into which he entered). As our Supreme Court has stated, *ignorantia non excusat. Simeone*, 581 A.2d at 165. In other words, ignorance is not an excuse.

Husband argues that the Agreement dated May 4, 2020 should be set aside because it is not a complete agreement, because Husband was distraught over the separation at the time he signed it, and because negotiations were ongoing between the parties regarding the property settlement. Husband argues that *Bennett v. Bennett*, 168 A.3d 238 (Pa. Super. 2017) supports his position. However, the facts in *Bennett* are distinguishable from those in this matter and the holding is contrary to Husband's argument.

In *Bennett*, the issue is that Husband, prior to executing the property settlement agreement, failed to make a full disclosure to his Wife of the pension benefit that he earned during the marriage. *Id.* at 241. The Court cites to and relies upon the Pennsylvania Supreme Court case of *Simeone v. Simeone*, *supra*, which held that "absent fraud, misrepresentation, or duress, spouses should be bound by the terms of their agreement." *Id.* at 245. The Court also held that, in the case of disclosure, "if an agreement provides that full disclosure has been made, a presumption of full disclosure arises." *Id.* The Superior Court also states that parties are "free to enter into bargains they later regret, and bad deals are as enforceable as good ones provided the agreement is free of fraud or duress." *Id.*; JOANNE R. WILDER, PENNSYLVANIA FAMILY PRACTICE AND PROCEDURE, 96, 5th ed. 2002. The *Bennett* Court ultimately reversed the trial court and held

that, absent evidence of fraud, duress, or misrepresentation, the agreement between the parties is valid and enforceable. *Bennett*, 168 A.3d at 246.

It is clear from the above case law that the burden rests on the Husband to prove that fraud, duress, or misrepresentation existed at the time he signed the Agreement. Husband has not attempted to prove fraud, duress, or misrepresentation occurred in this matter and therefore, the Agreement is presumed valid. Husband's failure to fully read the document and seek legal counsel prior to signing is of no consequence. There is no evidence presented that Husband was so distraught by the separation that he was unable to comprehend what he was doing or that Wife pressured him into signing the Agreement. The provisions contained within the Agreement are clear – the parties intended that the Agreement be binding and controlling. It is Husband's burden to establish fraud, duress, or misrepresentation. Husband has not met that burden.

### **III. Conclusion**

Pursuant to the foregoing reasons, Defendant Husband's Petition to Set Aside the Property Settlement Agreement is denied. The parties are free to amend the Agreement in accordance with Paragraph 14 of the Agreement.

**ORDER**

**AND NOW**, this **25<sup>th</sup>** day of **August, 2020**, upon consideration of Defendant's Petition to Set Aside Property Settlement Agreement, it is hereby Ordered that Defendant's Petition is **DENIED**. The Separation and Property Settlement Agreement entered into by the parties on May 4, 2020 remains valid and enforceable.

BY THE COURT,

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Hon. Ryan M. Tira, Judge

RMT/ads

CC: Jason Lepley, Esq.  
Joseph Orso, Esq.  
Gary L. Weber, Esquire, Lycoming Reporter