

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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TERRY LEE NEWMAN,  
Plaintiff-Appellee,

UNPUBLISHED  
August 26, 2003

v

BRIAN A. NEWMAN,  
Defendant-Appellant.

No. 239227  
Genesee Circuit Court  
LC No. 00-225937-DO

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Before: Markey, P.J., and Cavanagh and Saad, JJ.

MEMORANDUM.

Defendant appeals by right a consent judgment of divorce. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed a complaint for divorce and sought spousal support and an equitable property settlement. Following extensive negotiations, the parties placed a settlement on the record. Along with other terms, the parties agreed that the marital home would be sold and that plaintiff would receive \$15,000 from the sale proceeds. Defendant would retain ownership of vacant property in South Carolina and would pay plaintiff \$7,500 for her interest in the property. Plaintiff agreed to waive any interest she had in defendant's pensions, with the exception of survivor benefits. Defendant agreed to pay plaintiff spousal support in the amount of \$483 per month for five years. That figure represented twenty-five percent of defendant's monthly school district pension. The parties agreed that the payments would be taxable to plaintiff. Plaintiff and defendant stated that they understood and would abide by the settlement, notwithstanding that neither was pleased with some of its terms. The trial court rejected defendant's assertion that the proposed judgment of divorce plaintiff submitted under MCR 2.602(B)(3) did not comport with the settlement placed on the record and entered the judgment.

A property division reached by the consent of the parties and finalized in writing or on the record cannot be modified by the court. The court is bound to uphold such a settlement and cannot set it aside absent fraud, duress, mutual mistake, or severe stress. *Quade v Quade*, 238 Mich App 222, 226; 604 NW2d 778 (1999).

Defendant asserts that the property settlement the parties reached was inequitable and does not demonstrate that the parties had a meeting of the minds. We disagree and affirm the consent judgment of divorce. The parties reached a property settlement after extensive negotiations and placed the settlement on the record. Defendant indicated that he understood the

terms of the settlement and would abide by those terms, notwithstanding that he was not entirely pleased with the settlement. Defendant gave no indication that he could not hear or understand what was being said. Defendant agreed to pay plaintiff \$483 per month in spousal support for a period of five years. That figure represented twenty-five percent of defendant's monthly school district pension. The fact that the record does not reveal how the parties determined the amount of spousal support does not mandate a conclusion that a mistake was made. There is no evidence that the parties were unaware of the actual value of the South Carolina property or that defendant did not agree to pay plaintiff \$7,500. Defendant has not demonstrated that the settlement was the result of fraud, duress, mutual mistake, or severe stress, and he is not entitled to relief from the judgment of divorce. *Id.*

We affirm.

/s/ Jane E. Markey

/s/ Mark J. Cavanagh

/s/ Henry William Saad