CUSTOMERS BANK *v.* CB ASSOCIATES, INC., ET AL.
(AC 36419)

Sheldon, Prescott and Flynn, Js.

Argued January 7—officially released April 21, 2015

(Appeal from Superior Court, judicial district of Ansonia-Milford, Hon. John W. Moran, judge trial referee.)

Andrew P. Barsom, with whom, on the brief, was *Alena C. Gfeller*, for the appellant (plaintiff).

Dominick J. Thomas, Jr., with whom, on the brief, was *Ian Angus Cole*, for the appellee (named defendant et al.).

Opinion

PRESCOTT, J. This appeal arises from a stipulated judgment in an action by the plaintiff, Customers Bank, to recover sums due and owing to it under a promissory note from the defendant CB Associates, Inc. (CB), secured by a mortgage on several condominium units in Shelton, and a guaranty of CB's obligations under the note by the defendant Wayne R. Blakeman. The stipulated judgment provided: first, that a money judgment in the amount of $1,475,000 would enter in favor of the plaintiff against both defendants; second, that the parties would not contest a separate pending action by a condominium association to foreclose on several of the condominium units; and third, that if the plaintiff later acquired title to all or some of the foreclosed upon condominium units on its assigned law day following the entry of judgment for the condominium association in the foreclosure action, the value of the units so acquired, as determined in the foreclosure action, would be credited to the defendants toward the plaintiff's $1,475,000 judgment against them. The dispositive issue in this appeal is whether the trial court properly determined that the defendants fully satisfied the plaintiff's money judgment against them, after it acquired title to the foreclosed upon condominium units, and the foreclosure court had found the units to have an aggregate fair market value of $1.6 million. The plaintiff claims that the trial court improperly construed the terms of the stipulated judgment, and insists that the true and only value of the foreclosed upon units for purposes of the stipulated judgment should be the total amount for which they were later sold, not their "hypothetical value," as found by the foreclosure court in rendering a judgment of strict foreclosure. We affirm the trial court's judgment ordering the plaintiff to prepare and file a notice of satisfaction of judgment.

The following facts and procedural history are relevant to our resolution of this appeal. In an amended complaint, the plaintiff asserted claims sounding in breach of contract and breach of guaranty against the defendants regarding a $4 million loan made by the plaintiff's predecessor in interest, USA Bank, to CB. The terms of the loan, the plaintiff alleged, were set forth in a promissory note and commercial loan agreement executed by CB, and a personal guaranty executed by Blakeman, obligating them to repay the principal amount of the note, plus interest, by the note's maturity date. The promissory note additionally provided that the loan would be secured by a mortgage encumbering eight condominium units located at 665 River Road, in Shelton. The plaintiff claimed that despite its demands, the defendants failed to tender payment in accordance with the terms of the parties' agreements and, in fact, remained indebted to the plaintiff in the amount of $1,393,231.09.[1] The defendants

responded to the plaintiff's amended complaint by filing a counterclaim seeking a declaratory judgment that the plaintiff had abandoned the mortgage on the condominium units, and asserting claims of abuse of process, violation of the Connecticut Unfair Trade Practices Act, General Statutes § 42-110a et seq., and breach of the implied duty of good faith and fair dealing.

During the pendency of the present action on the note and guaranty, River Ridge of Shelton Condominium Association, Inc. (River Ridge), initiated an action seeking to foreclose on five of the eight condominium units that were the subject of the plaintiff's mortgage agreement with the defendants. See *River Ridge of Shelton Condominium Assn., Inc.* v. *CB Associates, Inc.*, Superior Court, judicial district of Ansonia-Milford, Docket No. CV-13-6012535-S (foreclosure action).[2] In its foreclosure complaint, River Ridge named CB and the plaintiff as defendants. It alleged that CB had failed to pay an outstanding balance for common expense assessments on the units. River Ridge further alleged that the plaintiff's mortgage on the property was subsequent in right to its statutory assessment lien.

The plaintiff and the defendants in the present action on the note eventually agreed to dispose of their respective claims by way of a stipulated judgment. At a hearing before the court, *Hon. John W. Moran*, judge trial referee, counsel for the plaintiff and counsel for the defendants recited the terms of their agreement on the record as follows:

"The Court: It is reported the case is settled?

"[The Plaintiff's Counsel]: That is correct, Your Honor.

"The Court: Is there a spokesman or further comment?

"[The Plaintiff's Counsel]: Your Honor, we have an agreement we would like to place on the record. The parties have agreed that judgment shall enter in favor of the [plaintiff] on all counts of the complaint with a judgment to enter in the amount of $1,475,000, that amount includes all fees and costs. The defendants shall waive or strike that—shall withdraw all of the counterclaims and defenses that have been presented in this case and they should all—they also agree to waive all appeal rights. All parties further agree that they will not contest a condominium association foreclosure, which is pending on the docket . . . [and] which relates to the property in which the [plaintiff] has a mortgage. However, all parties to this case agree that they will reserve their right to contest valuation of the individual condominium units at the time of the entry of judgment in that foreclosure action. That is the full and complete settlement as I understand it.

"[The Defendants' Counsel]: Yes, Your Honor. . . .

"The Court: Any comment, [counsel]?

"[The Defendants' Counsel]: . . . [A]nd, because the—if the [plaintiff] were to be the one to get title to the five units, that is what is being foreclosed, then that would be a credit against this judgment. So, we each are reserving the right to challenge the value at that time, Your Honor. . . ."

The court entered judgment in accordance with the parties' agreement. Thereafter, the parties in the foreclosure action presented evidence regarding the value of the five condominium units subject to foreclosure. After considering the evidence offered by the plaintiff, the defendants, and River Ridge, the court rendered a judgment of strict foreclosure on each of the five units. In doing so, the foreclosure court found that the aggregate fair market value of the five units was $1.6 million.

Following the court's ruling in the foreclosure action, the defendants moved in the present action for an order, pursuant to Practice Book § 6-5,[3] that the plaintiff's judgment against them had been satisfied. In this motion, the defendants claimed that the plaintiff had obtained title to the five units subject to the foreclosure action by paying off River Ridge's liens on those five units, resulting in a credit of $1.6 million toward the plaintiff's $1,475,000 judgment. The defendants additionally sought sanctions against the plaintiff on the ground that the plaintiff had repeatedly refused to notify the court in accordance with Practice Book § 6-5 that judgment in the present case had been satisfied.

The plaintiff objected to the defendants' motion, arguing that judgment had not been fully satisfied because the plaintiff, although obtaining title to the five condominium units, had not recovered the full amount of the judgment debt through their subsequent sale. Specifically, the plaintiff claimed that it had only sold three of the units, from which sale it received only $500,000. It argued that, under our case law, satisfaction of the judgment could only occur upon receipt of actual payment of the judgment debt or a payment equivalent thereto.

In a memorandum of decision, the court granted the defendants' motion for satisfaction of judgment and ordered the plaintiff to provide a written notice, in accordance with Practice Book § 6-5, that judgment in the present case had been satisfied. Relying on the terms of the stipulated judgment as previously recited by the parties before the court, the court reasoned that "[t]he only plausible and logical interpretation of the parties' agreement is that [the plaintiff] taking title to the [five] condominium units satisfied the judgment. Admittedly this is not the typical satisfaction in cash but it is equivalent thereto." The plaintiff subsequently appealed from the trial court's judgment to this court. Additional facts will be set forth as needed.

The plaintiff claims on appeal that the court improperly determined that its redemption of the five condominium units in the foreclosure action satisfied its money judgment against the defendants. More specifically, it claims that the court's determination was improper because: (1) the defendants had not tendered to the plaintiff payment of the actual amount of the judgment debt or a payment equivalent thereto; (2) the court interpreted the ambiguous terms of the stipulated judgment without ascertaining the intent of the parties; (3) the court failed to hold an evidentiary hearing; and (4) the court's decision violates public policy.

The defendants contest each of the plaintiff's claims, and additionally renew a previous motion for monetary sanctions on the ground that the plaintiff's appeal is frivolous and in direct contravention of the stipulated judgment.[4] For the following reasons, we reject the arguments advanced by the plaintiff, and deny the defendants' renewed motion for sanctions.

I

The plaintiff first claims that the trial court improperly determined that its money judgment against the defendants had been satisfied because the defendants failed to tender to it payment of the complete amount of the judgment debt. In support of this claim, the plaintiff argues that, pursuant to our decision in *Coyle Crete, LLC* v. *Nevins*, 137 Conn. App. 540, 550–54, 49 A.3d 770 (2012), the defendants were required to tender actual payment of the judgment debt or a payment equivalent thereto in order to satisfy the money judgment against them. We are not persuaded.

In *Coyle Crete, LLC*, we considered whether the defendant had fully satisfied an outstanding money judgment against her by tendering complete payment of the judgment debt to a creditor of the plaintiff. Id., 544. In determining that the defendant's payment did satisfy her obligations under the judgment, we held, as a matter of first impression, "that the following issues are prerequisites to the rendering of a determination by the court that a money judgment has been satisfied. First, the judgment creditor must have obtained a valid money judgment against the judgment debtor. Second, the judgment debtor must have paid the amount of that judgment. In so doing, the court must find that the judgment debtor either made actual payment to the judgment creditor or a payment equivalent thereto." Id., 552.

Relying on this holding, the plaintiff contends that the court improperly determined that the defendants had satisfied the money judgment against them because the defendants failed to tender actual payment of the judgment debt or a payment equivalent thereto. Specifically, the plaintiff claims that "the . . . [c]ourt's usage of the hypothetical and speculative fair market value

established at the time of the entry of the judgment of foreclosure of the five condominium units as the benchmark for its determination that the mere act of taking title to the condominium units satisfied [p]laintiff's monetary judgment is clearly incongruous and incompatible with the concept of an 'equivalent to actual payment of the money judgment' as required by . . . [*Coyle Crete, LLC*]." Accordingly, the plaintiff contends, "the entry of the . . . [c]ourt's order that the judgment was satisfied based solely upon the hypothetical fair market value of the foreclosed condominium units exceeding the amount of the monetary judgment was clearly erroneous as it did not meet either standard announced . . . in [*Coyle Crete, LLC*] for proper determination of when a monetary judgment may be deemed satisfied." (Internal quotation marks omitted.)

The plaintiff's reliance on *Coyle Crete, LLC*, is misplaced. In *Coyle Crete, LLC*, the trial court rendered the judgment at issue following a trial on the merits. Id., 549. The present case, however, concerns a *stipulated* judgment. By their nature, stipulated judgments are the creation of the parties and, consequently, must be given effect according to the parties' terms. "[A] stipulated judgment is not a judicial determination of any litigated right . . . [and] may be defined as a contract . . . . The essence of the judgment is that the parties to the litigation have *voluntarily entered into an agreement* setting their dispute or disputes at rest . . . ." (Emphasis in original; internal quotation marks omitted.) *Labulis* v. *Kopylec*, 128 Conn. App. 571, 580, 17 A.3d 1157 (2011). "[A stipulated] judgment is different in nature from a judgment rendered on the merits because it is primarily the act of the parties rather than the considered judgment of the court." (Footnote omitted.) 46 Am. Jur. 2d 528, Judgments § 184 (2006). "[P]arties generally enter into a stipulated judgment only after careful negotiation has produced agreement on their precise terms. . . . Thus, as a result of choosing the terms by which to resolve the controversy, [t]he parties [thereby] waive their right to litigate the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation. . . . Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with the litigation." (Citations omitted; emphasis omitted; internal quotation marks omitted.) *Przekopski* v. *Zoning Board of Appeals*, 131 Conn. App. 178, 187, 26 A.3d 657, cert. denied, 302 Conn. 946, 30 A.3d 1 (2011).

Thus, because the stipulated judgment in the present case constituted a contract between the parties, crafted as a means of resolving their dispute in a mutually agreeable manner, the court was not constrained to apply the framework we set forth in *Coyle Crete, LLC*, which we originally employed to determine whether a

judgment rendered after a trial on the merits had been satisfied. Instead, the court properly looked to the terms of the parties' agreement to ascertain whether the defendants had satisfied their obligations thereunder. To adopt the plaintiff's argument, which essentially asserts that, as a matter of law, a judgment can *never* be satisfied without actual payment of the judgment debt or a payment equivalent thereto, would undermine the rights of parties to resolve their disputes according to mutually agreeable terms, which may or may not encompass alternative or less conventional means of judgment satisfaction.[5] For these reasons, we reject the plaintiff's claim that in order to properly grant the defendants' motion for an order of satisfaction of judgment, the court was required to find that the defendants had tendered to the plaintiff actual payment of the judgment debt or a payment equivalent thereto.

II

The plaintiff next claims that the court improperly interpreted the ambiguous terms of the stipulated judgment without ascertaining the intent of the parties. Specifically, the plaintiff asserts that the stipulated judgment was subject to multiple reasonable interpretations, and that the court supplanted its understanding of the terms of the judgment rather than seeking to ascertain the parties' intent. We do not agree.

We begin our analysis by setting forth the relevant legal principles and applicable standard of review. As previously discussed, "[a] stipulated judgment constitutes a contract of the parties acknowledged in open court and ordered to be recorded by a court of competent jurisdiction. . . . A stipulated judgment allows the parties to avoid litigation by entering into an agreement that will settle their differences once the court renders judgment on the basis of the agreement. . . . A stipulated judgment, although obtained through mutual consent of the parties, is binding to the same degree as a judgment obtained through litigation. . . . A judgment rendered in accordance with . . . a stipulation of the parties is to be regarded and construed as a contract." (Citation omitted; internal quotation marks omitted.) *McCarthy* v. *Chromium Process Co.*, 127 Conn. App. 324, 329, 13 A.3d 715 (2011).

In keeping with the principle that a stipulated judgment constitutes a contract, we turn to well established principles of contract law to guide our analysis. "A contract must be construed to effectuate the intent of the parties, which is determined from the language used interpreted in the light of the situation of the parties and the circumstances connected with the transaction." (Internal quotation marks omitted.) *Murtha* v. *Hartford*, 303 Conn. 1, 7, 35 A.3d 177 (2011). "If a contract is unambiguous within its four corners, the determination of what the parties intended by their contractual commitments is a question of law. . . . When the lan-

guage of a contract is ambiguous, [however] the determination of the parties' intent is a question of fact, and the trial court's interpretation is subject to reversal on appeal only if it is clearly erroneous." (Internal quotation marks omitted.) *Connecticut National Bank* v. *Rehab Associates*, 300 Conn. 314, 319, 12 A.3d 995 (2011). "It is implicit in this rule that the determination as to whether contractual language is plain and unambiguous is itself a question of law subject to plenary review." *Cruz* v. *Visual Perceptions, LLC*, 311 Conn. 93, 101–102, 84 A.3d 828 (2014).

"In determining whether a contract is ambiguous, the words of the contract must be given their natural and ordinary meaning. . . . A contract is unambiguous when its language is clear and conveys a definite and precise intent. . . . The court will not torture words to impart ambiguity where ordinary meaning leaves no room for ambiguity. . . . Moreover, the mere fact that the parties advance different interpretations of the language in question does not necessitate a conclusion that the language is ambiguous." (Internal quotation marks omitted.) Id., 102–103. "Furthermore, a presumption that the language used is definitive arises when . . . the contract at issue is between sophisticated parties and is commercial in nature." *United Illuminating Co.* v. *Wisvest-Connecticut, LLC*, 259 Conn. 665, 670, 791 A.2d 546 (2002).

"In contrast, a contract is ambiguous if the intent of the parties is not clear and certain from the language of the contract itself. . . . [A]ny ambiguity in a contract must emanate from the language used by the parties. . . . The contract must be viewed in its entirety, with each provision read in light of the other provisions . . . and every provision must be given effect if it is possible to do so. . . . If the language of the contract is susceptible to more than one reasonable interpretation, the contract is ambiguous." (Citation omitted; internal quotation marks omitted.) *Cruz* v. *Visual Perceptions, LLC*, supra, 311 Conn. 103.

The plaintiff purports to identify at least two ambiguities in the terms of the stipulated judgment, namely, "what would happen to the judgment if the [plaintiff] did not take title to the units and what exactly is to be a credit against the judgment." We conclude, however, that the terms of the stipulated judgment, as set forth by the parties,[6] convey the definite and precise intent that the fair market value of the condominium units, as determined by the trial court in the related foreclosure action, rather than the proceeds obtained from a later sale of those units, would operate as a credit against the defendants' outstanding judgment. This intent is clearly reflected in statements made by counsel for the defendants while placing the terms of the settlement on the record. Specifically, counsel for the defendants stated: "[A]nd, because the—if the [plaintiff] were to

be the one to get *title to the five units*, that is what is being foreclosed, then *that* would be a credit against this judgment. *So*, we each are reserving the right to challenge the value *at that time*, Your Honor. . . ." (Emphasis added.)

In construing the first of these statements, we observe that the last occurrence of the pronoun "that" can only logically refer back to the five condominium units about which counsel for the defendants was speaking. Thus, framed more concisely, counsel for the defendants was clearly stating that, should the plaintiff acquire them, the value of the five condominium units as determined in River Ridge's foreclosure action would operate as a credit against the defendants' judgment in the present case.

The second statement then plainly clarifies that the value of the credit—that is, the value of the five condominium units—would be determined at the *foreclosure hearing*, subject to challenges by the parties. This meaning is evidenced by the use of the conjunctive "so"—which, in this context, can only logically mean, "for that reason"[7]—to connect the first sentence to the second. Thus, the parties agreed that the reason they were reserving the right to challenge the value of the condominium units, as determined by the court in the foreclosure action, was because that value would operate as the credit against the defendants' judgment. Moreover, the phrase, "at that time," indicates that the parties intended to challenge the valuation of the condominium units contemporaneously with the court's rendering of a judgment of foreclosure.

Neither of the scenarios posed by the plaintiff implicate provisions of the stipulated judgment that are actually ambiguous. The first scenario—"what would happen to the judgment if the [plaintiff] did not take title to the units"—merely acknowledges the possibility that the plaintiff might not have obtained title to the condominium units in the foreclosure action. We fail to see, however, how this uncertainty calls into question the meaning of the terms of the agreement. Moreover, it seems apparent that if the plaintiff had not obtained title to the units, then no credit would have applied to its judgment against the defendants.

The second purported ambiguity identified by the plaintiff, that is, "what exactly is to be a credit against the judgment," was addressed previously in this opinion. As we explained, the plain language of the agreement lends itself to only one logical interpretation: that the credit toward the defendants' satisfaction of the plaintiff's judgment against them would be the fair market value of the units determined by the trial court in the foreclosure action.

Tellingly, the plaintiff makes no serious attempt now, nor did it make any attempt before the trial court, to

offer any of the "multiple reasonable interpretations" that it claims apply to the agreement. In fact, no less than four times after the parties stipulated to the judgment did counsel for the defendants state unequivocally, and, most importantly, without disagreement from the plaintiff, that the defendants understood the terms of the agreement as providing that the foreclosure court's valuation of the condominiums would determine the credit against their outstanding judgment. The first of these instances occurred when the defendants objected to a motion for supplemental postjudgment discovered filed by the plaintiff. In that objection, the defendants stated: "In the stipulated judgment of February 1, 2013, the parties agreed that they would not object to the foreclosure of the two completed and three partially completed units commenced by [River Ridge] but reserved the right to challenge the value of the units since the plaintiff would redeem *and the defendants would be credited against the judgment herein with the value of the units as determined by the court* . . . ." (Emphasis added.)

The second instance occurred in a later objection to an application for order in aid of execution and a motion for turnover order filed by the plaintiff. In that objection, counsel for the defendants restated his understanding of the stipulated judgment in precisely the same terms as he had stated it in his first objection to the plaintiff's motion for supplemental postjudgment discovery.

The final two instances occurred during the valuation hearing in the foreclosure action. At the outset of the hearing, counsel for the defendants stated: "As I said earlier, Your Honor, this—as part of the resolution of Customers Bank versus CB Associates, which was tried before you, the defendants agreed not to object to a strict foreclosure and that it was understood that the [plaintiff] would redeem the five units. *And whatever valuation was established would be a credit against the judgment*." (Emphasis added.) Later in the hearing, counsel for the plaintiff stated: "In the interest of expediting this, Your Honor, if—it appears Your Honor is not agreeing with my appraiser's discounted value. If that is the case, then we will then stipulate to the appraisals as provided by [River Ridge]." After a brief recess, counsel for the defendants stated in response: "We will stipulate to [the appraiser for River Ridge's] values. *So the total value of the five units would be the $1.6 million* . . . . But we would do that, Your Honor, based—and tying it into the other case then. The [plaintiff] is not going to let its collateral go. [It] is going to redeem . . . *and then that will be credited against the judgment*, *which will in effect mean the judgment plus postjudgment interest will be paid in full by the five units*." (Emphasis added.)

In each of these instances, the plaintiff raised no objection, made no attempt to correct the defendants'

alleged misunderstanding, and gave no indication that it disagreed, in any way, with the defendants' understanding of the stipulated judgment. Instead, it relied, as it does now, solely on its argument that, pursuant to *Coyle Crete, LLC*, satisfaction of judgment cannot occur in the absence of actual payment of the judgment debt or a payment equivalent thereto. As we discussed previously, however, *Coyle Crete, LLC*, is not applicable to this case.

In sum, we conclude that the terms of the stipulated judgment are unambiguous and lend themselves to only one logical interpretation. For this reason, we further conclude that the court did not improperly interpret the agreement without ascertaining the parties' intent.

III

The plaintiff next claims that the court improperly failed to conduct an evidentiary hearing before ruling on the defendants' motion for an order of satisfaction of judgment. Specifically, the plaintiff claims that the court improperly substituted its interpretation of the agreement for facts and evidence that it claims were needed to show that the plaintiff received proper payment of the judgment debt. This claim merits little discussion.

"We consistently have held that, unless otherwise required by statute, a rule of practice or a rule of evidence, whether to conduct an evidentiary hearing generally is a matter that rests within the sound discretion of the trial court." *State* v. *Nguyen*, 253 Conn. 639, 653, 756 A.2d 833 (2000). In the present case, the plaintiff has failed to identify a statute, rule of practice, or rule of evidence obligating the court to conduct an evidentiary hearing in connection with the defendants' motion for an order of satisfaction of judgment. Moreover, the record reveals—and the plaintiff concedes—that despite faulting the court for not ordering an evidentiary hearing, the plaintiff never requested one, nor did it attempt to offer evidence at any time. Consequently, we conclude that the court did not abuse its discretion in declining, sua sponte, to order an evidentiary hearing. See *In re Zen T.*, 151 Conn. App. 724, 730–31, 95 A.3d 1258 (2014) ("Our review of the record reveals that the respondent did not request an evidentiary hearing, and she has not pointed us to any authority requiring the court to conduct such a hearing. . . . We conclude, therefore, that the court did not abuse its discretion in not holding an evidentiary hearing . . . ." [Citation omitted.]); *Ridgefield Bank* v. *Stones Trail, LLC*, 95 Conn. App. 279, 287, 898 A.2d 816 (court's decision not to hold evidentiary hearing in foreclosure action was not abuse of discretion where defendant requested only oral argument), cert. denied, 279 Conn. 910, 902 A.2d 1069 (2006).

IV

The plaintiff finally claims that the court's ruling granting the defendants' motion for an order of satisfaction of judgment violates public policy.[8] Specifically, the plaintiff contends that the court's ruling was improper because public policy dictates that a judgment creditor is entitled to collect full payment of an outstanding judgment. We find this claim to be without merit.

We begin our analysis by setting forth the applicable standard of review. "Although it is well established that parties are free to contract for whatever terms on which they may agree . . . it is equally well established that contracts that violate public policy are unenforceable. . . . [T]he question [of] whether a contract is against public policy is [a] question of law dependent on the circumstances of the particular case, over which an appellate court has unlimited review." (Citations omitted; internal quotation marks omitted.) *Hanks* v. *Powder Ridge Restaurant Corp.*, 276 Conn. 314, 326–27, 885 A.2d 734 (2005).

We conclude that even if a public policy exists establishing that a judgment creditor is entitled, in all circumstances, to full payment of an outstanding money judgment, the court's decision in the present case does not violate that policy. As previously discussed at length in this opinion, the parties specifically agreed that the fair market value of the condominium units, as determined by the court in the foreclosure action, would establish a credit against the outstanding judgment. The plaintiff cites no legal authority or legislative enactment suggesting that such an agreement violates public policy, and we are aware of none. To the contrary, "[t]here is a strong public policy in Connecticut favoring freedom of contract: It is established well beyond the need for citation that parties are free to contract for whatever terms on which they may agree. This freedom includes the right to contract for the assumption of known or unknown hazards and risks that may arise as a consequence of the execution of the contract. Accordingly, in private disputes, a court must enforce the contract as drafted by the parties and may not relieve a contracting party from anticipated or actual difficulties undertaken pursuant to the contract, unless the contract is voidable on grounds such as mistake, fraud or unconscionability. . . . If a contract violates public policy, this would be a ground to not enforce the contract. . . . A contract . . . however, does not violate public policy just because [it] was made unwisely. . . . [C]ourts do not unmake bargains unwisely made. Absent other infirmities, bargains moved on calculated considerations, and whether provident or improvident, are entitled nevertheless to sanctions of the law. . . . Although parties might prefer to have the court decide the plain effect of their contract contrary to the agreement, it is not within its power to make a new and different agreement; contracts voluntarily and fairly made should be held

valid and enforced in the courts." (Citations omitted; emphasis omitted; footnote omitted; internal quotation marks omitted.) *Schwartz* v. *Family Dental Group., P.C.*, 106 Conn. App. 765, 772–73, 943 A.2d 1122, cert. denied, 288 Conn. 911, 954 A.2d 184 (2008).

These principles establish that "[a] judgment creditor and debtor can agree to compromise and settle a judgment for less than the full amount of an award . . . ." 47 Am. Jur. 2d 395, Judgments § 823 (2006). Consequently, the fact that the plaintiff was apparently unable to recover the complete amount of the judgment debt by selling the condominium units does not relieve it from its obligation to credit the defendants, in accordance with their agreement, the amount of the foreclosure court's valuation of those units. We therefore conclude that the court's order granting the defendants' motion for an order of satisfaction of judgment in the present case did not violate public policy.

V

Finally, we turn to the defendants' renewed motion for sanctions. In their motion, the defendants argue that they are entitled to monetary sanctions against the plaintiff because the plaintiff's appeal is frivolous. Specifically, the defendants contend that the plaintiff's appeal is frivolous because it ignores the fundamental principle that a stipulated judgment is an agreement and must be construed accordingly. For reasons we now set forth, we deny the defendants' renewed motion for sanctions.

The standard of review governing our resolution of the defendants' motion is well established. Practice Book § 85-2 provides in relevant part: "Actions which may result in the imposition of sanctions include, but are not limited to . . . (5) [p]resentation of a frivolous appeal or frivolous issues on appeal. . . ." An appeal is frivolous "if the client desires to have the action taken primarily for the purpose of harassing or maliciously injuring a person or if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law. . . . [T]he burden of proof lies on the moving party to establish the frivolity of the appeal." (Internal quotation marks omitted.) *Texaco, Inc.* v. *Golart*, 206 Conn. 454, 464, 538 A.2d 1017 (1988).

On the basis of the record before us, we conclude that the defendants have failed to carry their burden of proving that the plaintiff's appeal is frivolous. We see no indication that the plaintiff pursued its appeal primarily for the purpose of harassing or maliciously injuring the defendants. Although we disagree with the plaintiff's reliance on *Coyle Crete, LLC* v. *Nevins*, supra, 137 Conn. App. 552, we conclude that this appeal is based upon a good faith argument for the extension

of existing law. Accordingly, we deny the defendants' renewed motion for sanctions.

The judgment is affirmed, and the defendants' renewed motion for sanctions is denied.

In this opinion the other judges concurred.

[1] The plaintiff's initial complaint sought foreclosure of the condominium units that were the subject of the defendants' mortgage. In its amended complaint, however, the plaintiff omitted this claim.

[2] The foreclosure action originally was filed in the judicial district of Danbury and assigned Docket No. CV-13-6011315. It later was transferred to the judicial district of Ansonia-Milford and assigned Docket No. CV-13-6012535-S.

[3] Practice Book § 6-5 provides: "When the judgment is satisfied in a civil action, the party recovering the judgment shall file written notice thereof with the clerk, who shall endorse judgment satisfied on the judgment file, if there is one, and make a similar notation on the file and docket sheet, giving the name of the party and the date. An execution returned fully satisfied shall be deemed a satisfaction of judgment and the notice required in this section shall not be filed. The judicial authority may, upon motion, make a determination that the judgment has been satisfied."

[4] The defendants initially moved for sanctions after the plaintiff filed its appeal. This court denied that motion without prejudice, but allowed the plaintiff to renew the motion before the panel assigned to hear the plaintiff's appeal.

[5] In light of the parties' agreement in this case, it is unnecessary to decide whether a judgment rendered after a trial on the merits can be satisfied, pursuant to *Coyle Crete, LLC*, in the same manner as set forth in the parties' agreement.

[6] We note that "[o]ral stipulations recorded in open court are just as binding, obligatory and conclusive as if in writing and executed with every legal formality . . . ." (Internal quotation marks omitted.) *Reid & Riege, P.C.* v. *Bulakites*, 132 Conn. App. 209, 217, 31 A.3d 406 (2011), cert. denied, 303 Conn. 926, 35 A.3d 1076 (2012).

[7] See Merriam-Webster's Collegiate Dictionary (11th Ed. 2003) p. 1182.

[8] The plaintiff raised its public policy argument to the trial court indirectly within the context of its principal argument that *Coyle Crete, LLC*, controlled the court's disposition of the defendants' motion. In the absence of any objection from the defendants, we consider the claim sufficiently preserved for purposes of review in this appeal.