

Cite as 2023 Ark. App. 564
ARKANSAS COURT OF APPEALS
DIVISION I
No. CV-22-538

HAMID MARDANBEIKI

APPELLANT

V.

TAHEREH MEHRAN

APPELLEE

Opinion Delivered December 6, 2023

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT
[NO. 72DR-11-214]

HONORABLE CRISTI BEAUMONT,
JUDGE

AFFIRMED

CINDY GRACE THYER, Judge

Hamid Mardanbeiki appeals from an order of the Washington County Circuit Court denying his petition for contempt against his former wife, appellee Tahereh Mehran. On appeal, Mardanbeiki argues that the circuit court’s order should be treated as an order granting summary judgment; he further contends that the court erred in granting “summary judgment” when there were material facts in dispute. We affirm.

I. Factual and Procedural Background

Mardanbeiki and Mehran were married in Iran in 1987. The couple subsequently moved to Arkansas, where they were divorced by a decree entered on September 22, 2011. The decree noted that a hearing on the couple’s property and debt settlement would be held at a later date.

It appears that in lieu of a hearing, the parties entered into a “Property Settlement Agreement” (PSA) on November 29, 2011. As is pertinent to this appeal, under the terms of the PSA, the parties agreed that their marital residence would be Mardanbeiki’s sole property, but he would allow Mehran to continue living there unless she remarried. Paragraph 9 of the PSA provided that each party “agree[d] to execute all necessary documents and conveyances for the purpose of implementing this agreement when and as called upon to do so by the other.”

On September 21, 2021, ten years after the divorce decree and PSA were entered, Mardanbeiki filed a petition for contempt against Mehran. Citing paragraph 9 of the PSA, Mardanbeiki asserted that he had presented a quitclaim deed for the marital residence to Mehran, but she refused to execute the document. Her refusal, he alleged, was a “willful violation of this court’s order [and was] contemptible in nature.”

Mehran filed a timely answer to the contempt petition as well as an amended answer. In a brief in support of her amended answer, Mehran argued that Mardanbeiki’s attempt to enforce the PSA was barred by the five-year statute of limitations for contracts. She also contended that the PSA was fraudulently induced and that Mardanbeiki’s claim should be barred by laches. Mardanbeiki filed a brief in support of his petition for contempt in response to Mehran’s answer, disputing each of her arguments. Neither party attached any exhibits to their respective filings.

The circuit court entered an order on May 2, 2022, denying Mardanbeiki’s petition for contempt. Specifically, the court found that the divorce decree and the separate PSA were

entered in 2011; therefore, Mardanbeiki was barred by the five-year statute of limitations from requesting a quitclaim title deed. In addition, the court found that his claim was barred by the doctrine of laches, noting that he had waited ten years to present the quitclaim deed, thereby causing Mehran to believe that he had abandoned his claim. Mardanbeiki timely filed a notice of appeal.

II. *Discussion*

Mardanbeiki concedes that “no motion for a summary judgment . . . was made or [appears] in the record.” Nevertheless, he asks this court to treat the circuit court’s order denying his petition for contempt as an order granting summary judgment because the order stated that the court considered “all pleadings, evidence, argument, and testimony before the court.”

We do not agree with Mardanbeiki’s assessment of the circuit court’s order denying his petition for contempt. Although the court employed boilerplate language about the “evidence, argument, and testimony” before the court, in this case, there was no such material before the court. Our record reflects that there were no hearings, no evidence was introduced, and no argument or testimony was presented. The court could have considered only Mardanbeiki’s contempt petition, Mehran’s answer and brief in support, and Mardanbeiki’s brief in response.

It is certainly true that when a circuit court considers matters outside the pleadings, the appellate court will treat a motion to dismiss as one for summary judgment. *Frankhouse v. City of Russellville*, 2023 Ark. App. 435, ___ S.W.3d ___ (citing *Comcast of Little Rock, Inc.*

v. Bradshaw, 2011 Ark. 431, 385 S.W.3d 137). Arkansas Rule of Civil Procedure 12(b) and (c) provide that when a party files a motion to dismiss under Rule 12(b)(6) (failure to state facts upon which relief can be granted) or a motion for judgment on the pleadings and the court considers matters outside the pleadings, the motion “shall be treated as one for summary judgment.”

Here, however, Mehran filed an answer to Mardanbeiki’s petition for contempt and a brief in support thereof in which she asserted that the statute of limitations had expired. She did not attach exhibits, affidavits, depositions, answers to interrogatories, or any other supporting documents that might typically accompany a summary-judgment motion or otherwise convert a motion to dismiss into a motion for summary judgment. Similarly, Mardanbeiki’s response to Mehran’s answer did not incorporate any exhibits, affidavits, or other materials outside of the pleadings. There is simply no basis on which this court can agree with Mardanbeiki’s argument that the circuit court’s order should be treated as an order granting summary judgment.

Regardless of the nature of the circuit court’s order denying his contempt petition, however, Mardanbeiki’s appeal is nonetheless without merit. While he claims that the circuit court erred in “granting summary judgment” because there were disputed issues of material fact,¹ he does not expressly challenge the circuit court’s findings that his claims were barred

¹Those purported “disputed facts” included “the allegation that [Mehran] did not know that property was being divided, despite the fact that the parties were in a divorce action and were referencing a prenuptial affidavit; that she was fraudulently induced into signing for her divorce; that she spoke poor English; and whether the transfer of the

by the statute of limitations and laches. When a circuit court bases its decision on more than one independent ground and the appellant challenges fewer than all those grounds on appeal, we will affirm without addressing any of the grounds. *Corbitt v. Ark. Game & Fish Comm'n*, 2023 Ark. 61, at 5; *United Food & Com. Workers Int'l Union v. Wal-Mart Stores, Inc.*, 2014 Ark. 517, at 6, 451 S.W.3d 584, 587. Here, the circuit court based its decision on two independent grounds, and Mardanbeiki challenges neither of them. We therefore affirm.

Affirmed.

GLADWIN and MURPHY, JJ., agree.

Bailey & Oliver Law Firm, by: *Charles W. Pearce*, for appellant.

Matthews, Campbell, Rhoads, McClure & Thompson, P.A., by: *Sarah L. Waddoups*, for appellee.

ownership of the marital residence had ever been requested in the past or had been a subject of mediation, litigation, or demand prior to the petition for contempt being filed.”