

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-002303-MR

LINDA KORFHAGE

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE DENISE CLAYTON, JUDGE
ACTION NO. 97-FC-007333

EDWARD A. PRELL

APPELLEE

TO BE HEARD WITH: NO. 2001-CA-000914-MR

CAROLYN J. KORFHAGE

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
JUDITH E. MCDONALD-BURKMAN, JUDGE
ACTION NO. 98-CI-003739

EDWARD A. PRELL;
LARRY J. KORFHAGE;
LINDA KORFHAGE

APPELLEES

TO BE HEARD WITH: 2001-CA-000924-MR

LINDA PRELL,
NOW KORFHAGE

APPELLANT

v.

APPEAL FROM JEFFERSON CIRCUIT COURT
JUDITH E. MCDONALD-BURKMAN, JUDGE
ACTION NO. 98-CI-003739

EDWARD A. PRELL;
LARRY J. KORFHAGE;
CAROLYN KORFHAGE

APPELLEES

OPINION
AFFIRMING
** **

BEFORE: COMBS, McANULTY, AND MILLER¹, JUDGES.

MILLER, JUDGE: These appeals spring from orders of the Jefferson Circuit Court.

These appeals are somewhat confusing. We discern the issues as best we can. We discuss them separately. We affirm in each appeal and note that many of the issues raised are without merit.

APPEAL NO. 2000-CA-002303-MR

Linda Korfhage appeals from an order entered September 19, 2000. We affirm.

Linda Korfhage and appellee, Edward A. Prell, were formerly husband and wife. During their marriage, they purchased, upon contract, certain property located on Fern Valley

¹This opinion was prepared and concurred in prior to Judge Miller's retirement effective January 1, 2003.

Road in Jefferson County, Kentucky. The purchase was made from Linda's parents, Larry J. and Carolyn Korfhage.

On October 1, 1997, Linda and Edward became involved in a divorce proceeding. On July 8, 1998, while the divorce proceeding was in progress, the Korfhages filed a foreclosure action (No. 98-CI-003739) against the Fern Valley property.

During the initial stage of the divorce proceedings, for some reason, the court failed to address the disposition of the Fern Valley property. Upon a motion filed by Edward, the court addressed the property directing Linda to quitclaim her interest therein to him. Linda objected, claiming that her prior expressed intent to quitclaim the property was in error. She sought one-half of the equity, which was to remain after foreclosure. The circuit court rejected her contention.

On June 15, 1999, Linda brought an appeal to this Court. At a settlement conference under Ky. R. Civ. P. (CR) 76.03, the issue of the Fern Valley property, *inter alia*, was addressed. Pursuant to an agreement allegedly reached therein, Linda was to quitclaim her interest in the property to Edward. The parties then fell into disagreement over the settlement. By order entered May 31, 2000, this Court remanded the matter to the circuit court for consideration of the settlement agreement. On September 5, 2000, the circuit court entered an order upholding the settlement agreement. On September 19, 2000, the order was re-entered, thus precipitating this appeal.

Linda contends the circuit court erred in enforcing the settlement conference agreement, and requiring her to quitclaim

the Fern Valley property to Edward. She further contends the court should not have interpreted the settlement conference agreement as barring her common law judgment against Edward, which judgment she had obtained for damage inflicted to her property.

We review questions of law *de novo*. We review the circuit court's findings of fact under the clearly erroneous rule of CR 52.01. We are of the opinion the circuit court did not err in either its application of law or its findings of fact.

Throughout these proceedings, Linda has contended her counsel in circuit court had no authority to agree to a transfer of the property. She has directed us to Clark v. Burden, Ky., 917 S.W.2d 574 (1996), wherein it was held that counsel has no authority to settle litigation without the client's consent. It was further held that in the event of a dispute as to the authority of counsel the facts shall be summarily determined by the court. Because the record contains no evidence that Linda's counsel acted beyond his authority, we cannot conclude that the decision of the trial court was erroneous.

In sum, we find no error in the circuit court's disposition of this matter upon remand.

For the foregoing reasons, the September 19, 2000 order of the Jefferson Circuit Court is affirmed.

APPEAL NO. 2001-CA-000914-MR

Carolyn Korfhage brings this appeal from an order of the Jefferson Circuit Court entered March 27, 2001. We affirm.

This appeal is related to Appeal No. 2000-CA-002303-MR in that it involves the Fern Valley property. In the foreclosure action filed by Larry and Carolyn Korfhage on July 8, 1998, an agreed judgment was entered. Said judgment was entered on July 21, 2000. The agreement provided for payment of the indebtedness against the property.

This appeal involves the unsuccessful effort of Carolyn to set aside the agreed judgment. Her contention throughout has been that her attorney had no authority to enter into an agreed judgment. She directs us to Clark v. Burden, Ky., 917 S.W.2d 574 (1996)(holding that an attorney may not settle without consent of the client).

Upon reviewing the record herein, we are convinced that the circuit court was correct in enforcing the agreed judgment. The record convinces us that the settlement was made with Carolyn's consent. Moreover, we are impressed with the circuit court's observation that there is nothing to be gained from Carolyn's argument inasmuch as the indebtedness against the property was fully satisfied.

For the foregoing reasons, the March 27, 2001 order of the Jefferson Circuit Court is affirmed.

APPEAL NO. 2001-CA-000924-MR

Linda Prell, now Korfhage, brings this appeal from a judgment of the Jefferson Circuit Court entered March 27, 2001. We affirm.

This is an untimely appeal. CR 73.02. Nevertheless, we have examined the issues raised and are of the opinion they are without merit.

For the foregoing reasons, the judgment of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

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