NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

DEBBIE VOYCHUK,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
EDWARD VOYCHUK,	:	
	:	
Appellant	:	No. 421 MDA 2013

Appeal from the Order Entered February 4, 2013
In the Court of Common Pleas of Luzerne County
Domestic Relations No(s).: 00791-2011

BEFORE: BENDER, P.J., WECHT, and FITZGERALD,* JJ.

MEMORANDUM BY FITZGERALD, J.: **FILED DECEMBER 03, 2013**

Appellant, Edward Voychuk, appeals from the order entered in the Luzerne County Court of Common Pleas denying his motion to vacate the order of October 25, 2012, which provided he pay support for the parties' minor child, born in 1996. Appellant contends the court erred in (1) adopting the order prepared by the master because there was no hearing and (2) failing to consider the parties' property settlement agreement, which provided that child support would terminate in October, 2012. We affirm.

The parties executed a property settlement agreement on September 20, 2010, which included provisions for child support, and divorced on

* Former Justice specially assigned to the Superior Court.

October 4, 2010. Appellee, Debbie Voychuk, filed a complaint for child support on April 19, 2012. A master/permanent hearing officer's hearing was scheduled for October 18, 2012. No hearing was held on that date; however, counsel for both parties met with the master and stipulated as to the parties' respective incomes. On October 25, 2012, the court entered an order which provided, *inter alia*, "From October 1, 2012 forward, [Appellant] is obligated to pay [Appellee] $626.00 per month for and toward the support of one minor child . . . ."

Appellant filed a motion to vacate the October 25, 2012 order. He contended the order violated the terms of the parties' Property Settlement Agreement. The trial court ordered the parties to file briefs. The parties complied and thereafter the court entered the underlying February 4, 2013 order denying Appellant's motion to vacate. This timely appeal followed. Appellant was not ordered to file a Pa.R.A.P. 1925(b) statement of errors complained of on appeal.

First, Appellant avers that he "was deprived of the opportunity to have a hearing, receive a [Master's] Report and Recommendation and file Exceptions thereto." Appellant's Brief at 10. He contends the court erred in adopting the order prepared by the support master because the master did not issue a report and recommendation to which exceptions could be filed.[1]

[1] We note that Appellant has not complied with Pa.R.A.P. 2116 which provides:

We hold that Appellant's brief is devoid of legal authority in support of this contention. ***See id.*** at 9-12. Appellant's "failure to develop an argument with citation to, and analysis of, relevant authority waives that issue on review." ***See Harris v. Toys "R" Us-Penn, Inc.***, 880 A.2d 1270, 1279 (Pa. Super. 2005).

Lastly, Appellant argues the trial court erred in failing to consider the parties' property settlement agreement that purportedly released him from the obligation to pay child support after October 1, 2010. Appellant avers

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> The statement of the questions involved must state concisely the issues to be resolved, expressed in the terms and circumstances of the case but without unnecessary detail. The statement will be deemed to include every subsidiary question fairly comprised therein. No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby. Each question shall be followed by an answer stating simply whether the court or government unit agreed, disagreed, did not answer, or did not address the question. If a qualified answer was given to the question, appellant shall indicate the nature of the qualification, or if the question was not answered or addressed and the record shows the reason for such failure, the reason shall be stated briefly in each instance without quoting the court or government unit below.

See Pa.R.A.P. 2116(a). "This rule is to be considered in the highest degree mandatory, admitting of no exception; ordinarily no point will be considered which is not set forth in the statement of questions involved or suggested thereby." ***Graziani v. Randolph***, 856 A.2d 1212, 1216 (Pa. Super. 2004). Appellant's brief does not contain a statement of the questions involved. We decline to quash or dismiss the appeal pursuant to Pa.R.A.P. 2101 because we can glean the issues raised from the argument section of his brief.

the property settlement agreement was fair and reasonable and provided adequate child support and there was no basis upon which to modify its provisions.[2]

We note the relevant standard of review:

> When evaluating a support order, this Court may only reverse the trial court's determination where the order cannot be sustained on any valid ground. We will not interfere with the broad discretion afforded the trial court absent an abuse of the discretion or insufficient evidence to sustain the support order. An abuse of discretion is not merely an error of judgment; if, in reaching a conclusion, the court overrides or misapplies the law, or the judgment exercised is shown by the record to be either manifestly unreasonable or the product of partiality, prejudice, bias or ill will, discretion has been abused. In addition, we note that the duty to support one's child is absolute, and the purpose of child support is to promote the child's best interests.

Silver v. Pinskey, 981 A.2d 284, 291 (Pa. Super. 2009) (citation omitted).

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[2] In his summary of the argument, Appellant refers to paragraphs seven and eight of the property settlement agreement. We note that paragraph seven addresses child support and paragraph eight refers to mutual releases between the parties. In the Argument section of the brief, Appellant does not identify the parts of the property settlement agreement which the trial court failed to consider.

Rule of Appellate Procedure 2119(c) provides:

> **(c) Reference to record.** If reference is made to the pleadings, evidence, charge, opinion or order, or any other matter appearing in the record, the argument must set forth, in immediate connection therewith, or in a footnote thereto, a reference to the place in the record where the matter referred to appears (see Rule 2132) (references in briefs to the record).

Pa.R.A.P. 2119(c).

The Pennsylvania Supreme Court has stated:

> **Parties to a divorce action may bargain between themselves and structure their agreement as best serves their interests. They have no power, however, to bargain away the rights of their children.** Their right to bargain for themselves is their own business. They cannot in that process set a standard that will leave their children short. Their bargain may be eminently fair, give all that the children might require and be enforceable because it is fair. When it gives less than required or less than can be given to provide for the best interest of the children, it falls under the jurisdiction of the court's wide and necessary powers to provide for that best interest. It is at best advisory to the court and swings on the tides of the necessity that the children be provided. To which the inter se rights of the parties must yield as the occasion requires. In the instant case the mother appellant has chosen not to sue on their separation agreement, but has sought redress by complaint in the Family Court. In doing so she has forsaken her contract right to sue, seeking the powers of the court for immediate relief. While such an option may provide swifter and more enforceable results, it becomes subject to the court and the court is not bound by their agreement. **In the exercise of its duty to provide for the best interests of the child, the court may order more than the agreement provides.** Hence for decision here, the appellant may prove before the Family Court a need for more than the agreement provides to supply the best interests of the children.[ ]

Knorr v. Knorr, 588 A.2d 503, 505 (Pa. 1991) (citations omitted and emphasis supplied).

In the case at bar, the property settlement agreement provided, *inter alia*,

> **7. <u>Child Support</u>**

> [Appellant] agrees to pay [Appellee] the sum of $800.00 per month for the support of the parties two (2) children, [ ], with first payment due on October 1, 2010, and continuing for 24 months thereafter.
>
> [Appellant] further agrees to maintain the children under the medical and dental insurance plan in effect upon the execution of this Agreement. All unreimbursed medical and dental expenses, including any deductibles shall be equally divided between parties.
>
> Should [Appellant] violate this Provision, [Appellee] shall retain the right to file a child support complaint with Domestic Relations Section of Luzerne County or any other appropriate venue.

Property Settlement Agreement, 9/20/10, at 14.

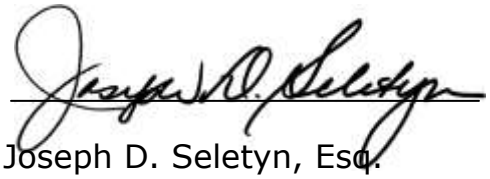
The trial court opined:

> The terms and conditions contained in this Property Settlement Agreement are against public policy as it does prejudice the welfare of the minor child. If this agreement were upheld, then support would terminate October 1, 2012. The minor child, in this particular case, is a junior in high school, age sixteen (16), with a birth date of June 24, 1996. The agreement specifically bargained away the rights of the minor child.

Trial Ct. Op. at 5. We agree. ***See Silver***, 981 A.2d at 291; ***Knorr***, 588 A.2d at 505. The court denied Appellant's motion to vacate the October 25th order. We discern no abuse of discretion. ***See Silver***, 981 A.2d at 291. Accordingly, we affirm.

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/3/2013