Reverse and Remand and Opinion Filed March 19, 2018

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-01141-CV

NATASHA ELIZABETH HALL, Appellant
V.
ROYSE EDWARD HALL, III, Appellee

On Appeal from the 86th Judicial District Court
Kaufman County, Texas
Trial Court Cause No. 94241-86

MEMORANDUM OPINION

Before Justices Bridges, Evans, and Whitehill
Opinion by Justice Bridges

Appellant Natasha Elizabeth Hall (Wife) appeals the final decree of divorce signed by the trial court on August 24, 2016. In four issues, Wife argues the trial court erred by (1) denying her motion for new trial on the basis of no jurisdiction; (2) signing the final divorce decree after she withdrew consent; (3) dividing community assets in an unfair and inequitable manner; and (4) including terms in the final divorce decree not recited by the parties. Because we conclude the trial court erred by entering a final judgment after Wife withdrew her consent, we reverse the trial court's judgment and remand for further proceedings.

The underlying facts of the divorce and procedural history are well-known to both Wife and appellee Royse Edward Hall, III (Husband); therefore, we include only those facts necessary for disposition of this appeal. TEX. R. APP. P. 47.1.

Husband and Wife filed petitions for divorce in 2015. Wife's petition asserted several claims against Husband, including reimbursement, fraud, and breach of fiduciary duty. The trial court held a "final hearing" on June 20, 2016 in which the parties agreed to a divorce and to an equitable and fair division of property. At the conclusion of the hearing, the trial court stated, "I'll grant the divorce. I'll approve the agreement of the parties." Husband's attorney agreed to draft the decree, and the trial court said, "[G]et that to me, I'll get it signed."

On July 12, 2016, Wife filed "petitioner's verified objection to manifestly unfair settlement terms; notice of withdrawal of consent; and request for final orders hearing." In the motion, she stated she "withdraws consent, if any is implied, to the manifestly unfair settlement terms" because her consent was invalidly procured through fraud, duress, or mistake. She stated the settlement terms discussed at the June 20th hearing failed to address or apportion her community interest in Husband's pension, among other things.

Husband subsequently filed a motion to divide undivided assets, which included his pension plan that was not discussed at the June 20th hearing. The court held a hearing on August 24, 2016 and then signed an order directing the pension funds be transmitted to the registry of the court. It also signed a "final divorce decree" on the same date.[1] Wife then filed her notice of appeal challenging the August 24, 2016 decree.

In her second issue, Mother argues the trial court erred by signing the "final divorce decree" on August 24, 2016 after she withdrew consent in her July 12, 2016 motion. A party may revoke their consent to an agreement at any time before judgment is rendered on the agreement. *S&A Rest. Corp. v. Leal*, 892 S.W.2d 855, 857 (Tex. 1995). A judgment rendered after one of the parties

[1] The parties filed numerous motions after the court signed the "final divorce decree;" however, they are not relevant to disposition of the appeal.

revokes consent is void. *Id*.; *see also Cook v. Cook*, 243 S.W.3d 800, 802 (Tex. App.—Fort Worth 2007, no pet.).

Here, the parties dispute whether the trial court's oral pronouncements on June 20, 2016 constituted a rendition of judgment thereby defeating Mother's withdrawal of consent. Judgment is rendered when the trial court officially announces its decision in open court or by written memorandum filed with the clerk. *Leal*, 892 S.W.2d at 857. An intent to render judgment in the future does not satisfy this test. *Id*. at 858; *Woods v. Woods*, 167 S.W.3d 932, 933 (Tex. App.—Amarillo 2005, no pet.). Rather, the words spoken or written by the trial court must evince a present, as opposed to future act that effectively decides the issues before the court. *Leal*, 892 at 858. In other words, "the trial court must clearly indicate the intent to render judgment at the time the words are expressed." *Id*.; *see also Woods*, 167 S.W.3d at 933. Once a judgment is rendered by oral pronouncement, entry of a written judgment is purely a ministerial act. *Dunn v. Dunn*, 439 S.W.2d 830, 832 (Tex. 1969).

Here, the trial judge's language during the oral pronouncements indicates an intent to approve the divorce settlement, but not a clear intent to render a full, final, and complete judgment. At the hearing, the trial judge never ordered, rendered, or granted a divorce but instead said, "I'll grant the divorce. I'll approve the agreement of the parties," followed with a request for a written decree he agreed to "get it signed." Words indicating what the trial judge "will grant" and "will approve" do not signify a present rendition of judgment. *See, e.g., Alexander Dubose Jefferson & Townsend, LLP v. Chevron Phillips Chem. Co.*, No. 16-1018, 2018 Wl 1022475, at *4 n.31 (Tex. Feb. 23, 2018) (trial judge's lack of present intent to resolve dispute indicated by stating what he was "going to" do and subsequently requesting a judgment); *Araujo v. Araujo*, 493 S.W.3d 232, 237 (Tex. App.—San Antonio 2016, no pet.); *In re M.G.F.*, No. 2-07-241-CV, 2008 WL 4052992, at *3 (Tex. App.—Fort Worth Aug. 28, 2008, no pet.) (mem. op.) (trial judge's use of the words

"will approve" and "will sign" indicated a future intent to render judgment); *James v. Hubbard*, 21 S.W.3d 558, 561 (Tex. App.—San Antonio 2000, no pet.) (trial judge stating he was "going" to grant divorce coupled with request for "final" decree to be on his desk indicated future intent to render judgment).

To the extent the August 24, 2016 "final divorce decree" states the divorce was "judicially PRONOUNCED and RENDERED" on June 20, 2016, we look primarily to the words used by the court at the time such statements were made. *Araujo*, 493 S.W.3d at 237. Evidence beyond the words of the court at the time of the alleged judgment, such as later statements and writings by the court, is not controlling or dispositive. *Id*. For the trial court to effectively render judgment in open court, it must do so in spoken word, not in mere cognition. *Hubbard*, 21 S.W.3d at 562 (citing *Leal*, 892 S.W.2d at 857). Such words were not spoken at the June 20th hearing. Accordingly, the trial court's oral pronouncements did not constitute rendition of a final judgment.

Because the trial court had not rendered a final judgment at the time Wife filed her motion withdrawing her consent, the trial court erred by signing the August 24, 2016 "final divorce decree." *Leal*, 892 S.W.2d at 857. As such, the decree is void. *Id*.; *see also Cook*, 243 S.W.3d at 802. We sustain Wife's second issue. Having sustained this issue, we need not address her remaining issues. TEX. R. APP. P. 47.1.

We reverse the judgment of the trial court and remand for further proceedings.

/David L. Bridges/
DAVID L. BRIDGES
JUSTICE

161141F.P05

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

NATASHA ELIZABETH HALL,
Appellant

No. 05-16-01141-CV V.

ROYSE EDWARD HALL, III, Appellee

On Appeal from the 86th Judicial District Court, Kaufman County, Texas
Trial Court Cause No. 94241-86.
Opinion delivered by Justice Bridges.
Justices Evans and Whitehill participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **REVERSED** and this cause is **REMANDED** to the trial court for further proceedings.

It is **ORDERED** that appellant NATASHA ELIZABETH HALL recover her costs of this appeal from appellee ROYSE EDWARD HALL, III.

Judgment entered March 19, 2018.