

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1129

September Term, 2014

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CHUKS DONATUS NNADOZIE

v.

CHINWENDU CATHERINE NNADOZIE

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Graeff,  
Kehoe,  
Nazarian,

JJ.

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Opinion by Nazarian, J.

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Filed: June 2, 2015

Chuks Nnadozie (“Husband”) does not dispute that he agreed, in open court during their divorce proceeding, to pay his wife, Chinwendu Nnadozie (“Wife”), a marital award of \$18,500. He does not dispute that the award remains unpaid. He has, however, resisted Wife’s efforts to enforce this agreement, and he appeals from a judgment of the Circuit Court for Baltimore City ordering him to perform it.<sup>1</sup>

During oral argument, Husband’s counsel conceded that Husband agreed to pay this marital award, that Husband did not dispute the obligation or any of its terms during the enforcement proceedings, and that the circuit court had the authority to order specific performance if the fact and terms of the agreement were proven. This leaves only his claim

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<sup>1</sup> His brief listed the following Questions Presented:

1. Did the Trial Court err as a matter of law and was it clearly erroneous in its evidentiary ruling that the Best Evidence Rule did not apply and that [Wife] was not required to provide the transcript of the hearing to specifically enforce the oral agreement placed on the record at said hearing?
2. Did the Trial Court err as a matter of law and was it clearly erroneous in granting the remedy of specific performance of the Parties’ oral agreement where [Wife] failed to plead a cause of action for specific performance in her Petition for Contempt in accordance with the requirements of Maryland Rules, Rule 2-303 and Rule 2-305?
3. Did the Trial Court err as a matter of law and was it clearly erroneous in relying on [Md. Code (1984, 2012 Repl. Vol.), § 8-105 of the Family Law Article (“FL”)] in enforcing provisions of the alleged oral agreement attending to property disposition, which were held in the same decision to not be incorporated into the Judgment of Divorce, as such were void?

that the terms of the couple's agreement were not adequately proven during the enforcement proceeding, a contention that has us scratching our heads *since the terms of the marital award have never been disputed in the first place*. Regardless, the evidence of the agreement introduced in the circuit court—most notably, Husband's hearing testimony and his then-counsel's contemporaneous letter memorializing the parties' agreement—thoroughly undermines his remaining challenges. For the reasons set forth in the circuit court's thoughtful and well-reasoned Memorandum Opinion, we affirm. And because Husband has ducked his marital debt for too long as it is, we order the mandate to issue forthwith.

## I. BACKGROUND

On the final day of a five-day trial in their divorce case, Husband and Wife reached an agreement that included, among other things, terms for the division of their marital property. After both were *voir dire*d by their respective counsel, they placed the terms of the Agreement, including Husband's agreement to pay Wife \$18,500 as a marital award, on the record in open court. At the conclusion of the hearing, the circuit court instructed Wife's counsel to draft a proposed judgment of divorce, send it to Husband's counsel for review, and submit it to the court for approval.

The parties were able to reach an agreement with respect to all of the provisions of the proposed judgment of divorce with the exception of a provision involving the division of extra-curricular expenses for the parties' minor children. On September 26, 2011, Wife's counsel sent Husband's counsel a copy of the proposed judgment of divorce that

provided that Husband would be responsible for the children's extra-curricular expenses. After receiving no response, Wife's counsel, on October 13, 2011, submitted her proposed judgment of divorce to the circuit court for approval. Husband's counsel submitted her own proposed judgment of divorce five days later, and it mirrored the version submitted by Wife's counsel except that it provided that the parties would share the children's extra-curricular expenses. On November 7, 2011, the circuit court adopted the judgment of divorce proposed by Wife's counsel and entered the Judgment of Divorce.

In parallel, however, Husband filed a Voluntary Petition for Chapter 7 Bankruptcy in the United States Bankruptcy Court for the District of Maryland on October 5, 2011. On October 28, 2011, Husband filed a Suggestion of Bankruptcy to inform the circuit court about the filing of the bankruptcy petition, a document that apparently did not make its way to the court before it entered judgment. On January 17, 2012, the Bankruptcy Court entered an Order Discharging Debtor, which discharged a number of Husband's debts, and the bankruptcy case was closed on March 22, 2012.

Husband then took the position that he was no longer obligated to pay Wife the \$18,500 he agreed to pay as a marital award because the award was discharged in bankruptcy, and declined to pay it. Wife filed a breach of contract action in the District Court for Baltimore City, and on November 27, 2012, the district court ruled that the marital award was discharged in bankruptcy and dismissed the action. Wife appealed the dismissal to the circuit court on December 3, 2012, and the next day filed a Petition for Contempt and/or Motion for Specific Performance (the "Petition") in which she asked the

circuit court find Husband in contempt of the Judgment of Divorce and require him to pay the \$18,500 marital award. On March 19, 2013, the circuit court remanded the breach of contract action to the district court for a hearing on whether the marital award was dischargeable in bankruptcy (it wasn't, by the way, and Husband eventually conceded the point), prompting Wife to voluntarily dismiss the Petition. The contract action was ultimately dismissed, without prejudice, by stipulation on December 5, 2013.

In the meantime, Wife refiled the Petition, and the circuit court issued a Show Cause Order that directed Husband to show cause why he was not in contempt of court for failing to pay the monetary award. During a hearing on the Show Cause Order, Wife testified about the terms of the Agreement:

[COUNSEL FOR WIFE]: Did you understand that agreement to resolve all issues of marital property?

[WIFE]: Yes, I did.

[COUNSEL FOR WIFE]: And what was your understanding of the agreement in terms of marital property?

[COUNSEL FOR HUSBAND]: Objection.

[COURT]: Overruled.

[COUNSEL FOR HUSBAND]: May I be heard, Your Honor?

[COURT]: Go ahead.

[COUNSEL FOR HUSBAND]: Best evidence rule. There was an agreement placed on the record. The best evidence in this case would be the transcript of that proceeding, and I would object to anyone's understanding of what was said in that particular proceeding, Your Honor.

[COURT]: I note it. I overrule it. Notwithstanding that the transcript to the proceeding may, indeed, be the best evidence of the proceedings of that date, namely, I believe, August the 31st –

[COUNSEL FOR HUSBAND]: [Seventeenth], Your Honor.

[COUNSEL FOR WIFE]: Yeah, on the 17th.

[COURT]: I'm sorry, I misspoke. August 17th, 2011. The question of [Husband] in this regard is, essentially, did she appear in court, were marital property issues resolved by virtue of the agreement as she understood it to have occurred, and the answer is yes. Please continue.

[COUNSEL FOR WIFE]: Okay. Was [Husband] to pay you any money for your share of marital property.

[WIFE]: Yes.

[COUNSEL FOR HUSBAND]: Objection.

[COURT]: Overruled for the same reason.

[WIFE]: Yes.

[COUNSEL FOR WIFE]: How much was he –

[COURT]: This is – and, just, if I can – the Court is accepting this line of testimony to ascertain as best it can what each party respectively believes the result was as a result of open court proceedings . . . And I'll note a continuing objection.

[COUNSEL FOR HUSBAND]: Thank you, Your Honor.

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[COUNSEL FOR WIFE]: Do you remember how much that award was?

[WIFE]: It was \$18,500.

Later on in the hearing, Husband testified that he too understood that he was required to pay Wife \$18,500 pursuant to their agreement. As further evidence of the terms of the agreement, Wife offered, and the court admitted entered into evidence, copies of the Judgment of Divorce that the circuit court had executed and the draft judgment Husband's counsel had sent the court on October 18, 2011.

On July 10, 2014, the circuit court issued a Memorandum Opinion and ordered Husband to pay Wife \$18,500 pursuant to their agreement. The circuit court found that the marital award provision of the Judgment of Divorce was void because the court had issued it while the automatic stay flowing from Husband's bankruptcy filing was in effect, so Husband could not be held in civil contempt for willfully refusing to comply. But that didn't let Husband off the hook: the circuit court held that Husband was *still* required to pay Wife the \$18,500 marital award because the agreement itself remained enforceable as a separate contract. This appeal followed.

## II. DISCUSSION

Husband assigned three errors in his brief, all of which relate to enforcement and none to the merits of the underlying obligation. *First*, he argued that Wife failed to prove the contents of the Agreement because she did not introduce the transcript of the August 17, 2011 hearing into evidence, which he claims was required under the best evidence rule. *Second*, he claimed that the circuit court erred in requiring specific performance because the Petition failed to request relief in so many words. *And third*, he contended that the circuit court erred in relying on FL § 8-105 to enforce the terms of the

Agreement after it found that the marital award provision of the Judgment of Divorce was rendered void.

Over the course of oral argument, the issues narrowed. Husband’s counsel conceded, correctly in our view, that the circuit court had the authority to order specific performance, and this concession resolves his second and third appellate questions. All that Rule 2-305 requires a pleading to contain is “a clear statement of the facts necessary to constitute a cause of action and a demand for judgment for the relief sought,” Md. Rule 2-305, and in the Petition’s prayer for relief, Wife requested that the circuit court “[o]rder [Husband] to immediately pay the owed amount of eighteen thousand five hundred dollars (\$18,500.000).” We see no legal or practical difference between an order directing Husband to pay the outstanding marital award and an order directing Husband to perform the on-the-record agreement, and the Petition—which was titled “Petition For Contempt and/or *Motion For Specific Performance*” (emphasis added)—amply placed Husband on notice that Wife was seeking specific performance. *See Tavakoli–Nouri v. State*, 139 Md. App. 716, 730 (2001) (“Essentially, a complaint is sufficient to state a cause of action even if it relates ‘just the facts’ necessary to establish its elements.”). Moreover, an agreement is an agreement, and the fact that the Judgment of Divorce might be void as to their marital property division doesn’t affect the court’s right independently to enforce their contract, whether as an agreement incorporated but not merged into a divorce decree, *see* FL § 8-105(a)(2), or as a straight-up contract.



This leaves only, then, Husband’s contention that the terms of the agreement were not proven during the enforcement hearing. The circuit court’s Memorandum Opinion thoroughly debunks this myth, and we adopt and incorporate that Opinion here, both because the Opinion states and analyzes the issues better than we could from our appellate vantage point and because the additional time it would take to write our own version only plays into Husband’s hands.

We offer two brief supplemental observations. *First*, Husband’s Best Evidence Rule argument doesn’t even survive the first sentence of Rule 5-1002, which states that the purpose of the Rule is “[t]o prove the content of a writing, recording, or photograph.” Md. Rule 5-1002. Wife does not seek to prove the content of a writing—she seeks to enforce an *oral agreement* that the parties memorialized in open court. *Second*, even if the Best Evidence Rule did apply, the hearing record satisfied Rule 5-1007’s exception to that rule. Not only did Husband acknowledge his agreement to pay this marital award during his own testimony, the court admitted as evidence his then-counsel’s letter to the court and draft Judgment containing the precise payment terms. *See* Md. Rule 5-1007 (“Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by the party’s written admission, without accounting for the nonproduction of the original.”).

Enough is enough. Husband agreed in open court nearly four years ago to pay a marital award of \$18,500. He does not dispute that he owes Wife this money, he has never disputed the amount or the terms of payment, and he does not dispute the circuit court’s

authority to order him to pay it. We affirm the judgment of the circuit court and order the mandate to issue forthwith.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.  
THE MANDATE SHALL ISSUE  
FORTHWITH.**