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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NOS. A-2877-20
A-3106-20

LAURA S. FLANAGAN,

Plaintiff-Respondent,

v.

RICHARD J. FLANAGAN,

Defendant-Appellant.

Submitted March 29, 2022 – Decided May 10, 2022

Before Judges Currier and Smith.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Essex County, Docket
No. FM-07-2236-02.

Richard J. Flanagan, appellant pro se.

Laura S. Flanagan, respondent pro se.

PER CURIAM

In this consolidated matter, defendant Richard J. Flanagan appeals from the Family Part's order denying reconsideration of its order compelling him to pay alimony and child support arrears. He also appeals the Family Part's original order rejecting his cross-motion for reduction of his alimony and child support obligations. We discern no error in either order, and we affirm.

The parties were married in 1987 and had two children. They were divorced in 2004. The Family Part incorporated a detailed property settlement agreement (PSA) governing property distribution, alimony, child custody and support as part of the judgment of divorce (JOD).

Under the terms of the PSA, plaintiff received title to the marital home and defendant's car. The agreement awarded custody of the children to plaintiff and provided flexible visitation provisions. Defendant also agreed to pay plaintiff \$6,600 per month alimony through December 31, 2007. Starting January 1, 2008, the parties agreed to reduce defendant's alimony to \$4,250 per month until either parties' death or plaintiff remarried. Defendant was also obligated to pay \$2,030 per month for child support until the children entered college, at which time child support was reduced to \$1,360 per month. Defendant also agreed to pay two-thirds of the college expenses for each child up to four years.

Defendant fell behind in his alimony and child support obligations. In November 2009, plaintiff moved to enter judgment against defendant for alimony and child support arrears. The court granted plaintiff's motion and entered judgment against defendant for \$139,340 in alimony and child support arrears and \$88,614.18 for unpaid college expenses in January 2010.

Plaintiff sought to enforce the order of judgment in 2013. Defendant cross-moved to reduce his obligations, asserting a change in circumstances that precluded him from making his monthly payments. The court found defendant had established a prima facie showing of changed circumstances, based on evidence that his financial situation had deteriorated. It granted defendant's cross-motion, modifying his alimony to \$2,500 per month and crediting \$22,750 toward his arrears. The court also granted plaintiff's motion, entering a modified judgment for alimony and child support arrears in the amount of \$189,750 in alimony and \$9,250 in child support.

Approximately six years later, in August 2019, plaintiff filed a third motion to enforce litigant's rights again based on unpaid alimony and child support. Defendant filed another cross-motion seeking to reduce his alimony and child support obligations. After discovery, a judge's recusal, and several

case management orders, a different Family Part judge conducted a plenary hearing in April 2021.

The parties agreed that the sole issue to be determined was to establish defendant's alimony and child support obligation, including arrears. The judge found plaintiff credible, but not defendant. The judge concluded the weight of the evidence supported a finding that plaintiff satisfied her burden of proof, and ordered defendant pay \$215,354.18 in alimony. He also denied defendant's cross-motion seeking a modification of alimony and child support arrears. The judge elected to combine alimony and child support arrears as strictly alimony in the new order of judgment.¹ Defendant appealed.

Plaintiff promptly sought reconsideration of the order, arguing that she did not want the alimony and child support arrears consolidated as alimony arrears only. The judge granted plaintiff's motion and split the judgment amount to reflect both alimony and child support arrears. He established that the unpaid balance of the 2013 judgment was comprised of \$100,802.24 in alimony and \$114,551.94 in child support. Defendant then sought reconsideration of this order, asking the court to reduce his alimony and child support obligations and

¹ The judge also ordered defendant to make a \$50,000 lump sum payment toward his arrears within forty-five days from the date of the judgment.

also seeking to eliminate the \$50,000 lump sum payment based on changed circumstances. After the court denied his reconsideration motion, defendant appealed the order.

The original order denied defendant a downward modification in alimony and child support obligations. He appeals, arguing that: the calculations were based on inaccurate income proofs; his support obligations should be reduced retroactively or eliminated as of December 31, 2019; and plaintiff's failure to supply discovery for various motions over the years should result in sanctions.

Defendant first challenges the judge's alimony and child support determinations. He contends that the judge improperly relied on inaccurate income proofs to support his alimony and child support calculations. He further argues the judge erred in denying his cross-motion for modification of his support obligations. We disagree and affirm.

Our review of Family Part orders is limited. Cesare v. Cesare, 154 N.J. 394, 411 (1998). We "accord particular deference to the Family Part because of its 'special jurisdiction and expertise' in family matters." Harte v. Hand, 433 N.J. Super. 457, 461 (App. Div. 2013) (quoting Cesare, 154 N.J. at 413). Generally, "findings by the trial court are binding on appeal when supported by adequate, substantial, credible evidence." Cesare, 154 N.J. at 411-12 (citing

Rova Farms Resort, Inc. v. Invs. Ins. Co. of Am., 65 N.J. 474, 484 (1974)). We will not disturb the factual findings and legal conclusions unless convinced they are "so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." Ricci v. Ricci, 448 N.J. Super. 546, 564 (App. Div. 2017) (quoting Elrom v. Elrom, 439 N.J. Super. 424, 433 (App. Div. 2015)). Challenges to legal conclusions, as well as a trial court's interpretation of the law, are subject to de novo review. Id. at 565.

In calculating the arrears due on alimony and child support, the judge properly considered the ample record, including defendant's documentary evidence, plaintiff's submissions, and the judgments themselves. Consequently, we find the judge's order granting plaintiff's motion to be well "supported by adequate, substantial, credible evidence" in the record. Cesare, 154 N.J. at 411-12 (citation omitted).

In rejecting defendant's cross-motion for modification of his obligations, the judge considered Lepis² and the applicable factors set forth in N.J.S.A. 2A:34-23(b). The judge acknowledged defendant's testimony about his financial matters and deteriorating health, and all of the written evidence

² Lepis v. Lepis, 83 N.J. 139 (1980).

supporting his motion. However, the voluminous record supports the judge's denial of defendant's cross-motion.

Defendant also argues the judge erred in denying his motion for reconsideration by refusing to consider new evidence which he presented in support of his motion. Specifically, he contends the judge ignored financial records and tax returns demonstrating his declining income. We are not persuaded.

Our standard of review on a motion for reconsideration is deferential. "Motions for reconsideration are governed by Rule 4:49-2, which provides that the decision to grant or deny a motion for reconsideration rests within the sound discretion of the trial court." Pitney Bowes Bank, Inc. v. ABC Caging Fulfillment, 440 N.J. Super. 378, 382 (App. Div. 2015).

Reconsideration "is not appropriate merely because a litigant is dissatisfied with a decision of the court or wishes to reargue a motion" Palombi v. Palombi, 414 N.J. Super. 274, 288 (App. Div. 2010). "[A] motion for reconsideration provides the court, and not the litigant, with an opportunity to take a second bite at the apple to correct errors inherent in a prior ruling." Medina v. Pitta, 442 N.J. Super. 1, 18 (App. Div. 2015). It "does not provide the litigant with an opportunity to raise new legal issues that were not presented

to the court in the underlying motion." Ibid. Defendant fails to articulate any new facts or matters which satisfy the standard for reconsideration. See R. 4:49-2. Defendant's mere dissatisfaction with the judge's determination is insufficient to disturb his decision. Palombi, 414 N.J. Super. at 288. We discern no abuse of discretion in the court's rejection of defendant's reconsideration motion, given the voluminous financial record generated during the April 2021 plenary hearing and subsequent motion practice, as well as throughout this litigation; litigation which has proceeded nearly unabated since the plaintiff's original motion to enforce litigant's rights was filed in 2009.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION