SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0067-21

ROBERT T. GOLDMAN,

Plaintiff-Respondent,

v.

GAIL H. MAUTNER,

Defendant-Appellant.

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NORRIS MCLAUGHLIN, P.A.,

Respondent,

and

JAMES P. YUDES, P.C.,

Respondent.

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Argued November 30, 2022 – Decided December 7, 2022

Before Judges Haas and DeAlmeida.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Essex County, Docket No. FM-07-1478-03.

Gail H. Mautner, appellant, argued the cause pro se.

Kevin M. Mazza argued the cause for pro se respondent James P. Yudes, PC (James P. Yudes, of counsel; Kevin M. Mazza, on the brief).

Jerome F. Gallagher, Jr., argued the cause for pro se respondent Norris McLaughlin, PA (Jerome F. Gallagher, Jr., of counsel and on the brief; Christopher S. Kwelty, on the brief).

PER CURIAM

For the fifth time,[1] this almost twenty-year-old,[2] contentious marital dissolution matter between plaintiff Robert T. Goldman and defendant Gail H. Mautner returns to us for resolution. In this iteration of the parties' dispute, Mautner challenges the Family Part's July 26, 2021 order entering judgment in favor of two of the law firms which previously represented Mautner in this action for the fees and costs she failed to pay them during the course of that representation. We affirm.

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[1] Goldman v. Mautner (Mautner I), No. A-4085-07 (App. Div. Dec. 18, 2008); Goldman v. Mautner (Mautner II), No. A-0620-09 (App. Div. Apr. 17, 2012); Goldman v. Mautner (Mautner III), No. A-3617-12 (App. Div. Apr. 13, 2015); Goldman v. Mautner (Mautner IV), No. A-1308-15 (App. Div. Dec. 26, 2017), certif. denied, 235 N.J. 394 (2018).

[2] The parties commenced their dissolution proceeding in January 2003, following the breakdown of their approximately ten-year marriage. Goldman III, (slip op. at 4).

The parties are fully familiar with the procedural history and the salient facts of this case. Therefore, they will not be repeated in detail in this opinion.

After the trial court resolved a number of the parties' outstanding issues in a series of orders in 2013 as directed by one of our previous remand orders, Mautner and Goldman filed competing appeals. Goldman III, (slip op. at 4). While those appeals were pending, two of Mautner's former law firms, James P. Yudes, P.C. (Yudes) and Norris McLaughlin, P.A. (Norris), sought to obtain charging liens against defendant for the unpaid services they rendered and the disbursements they incurred on Mautner's behalf.[3]

The trial court conducted plenary hearings concerning the law firms' applications. On February 11, 2015, the court entered a charging lien in Yudes' favor and against Mautner in the amount of $235,895.60. In that same order, the court established a $158,893.88 charging lien in Norris' favor against Mautner. The court amended this order on March 31, 2015 to remove a provision of the February 11, 2015 order that had allocated a portion of the responsibility for paying the parties' counsel fees to Goldman.

[3] Yudes represented Mautner from September 2003 to April 2008. Norris represented Mautner for the period between April 2008 and December 2009.

We rendered our opinion in Goldman III on April 13, 2015. In that opinion, we noted that the parties were still attempting to resolve counsel fee issues with the trial court. Id. at 26-29. Because those issues had not been finally resolved, we dismissed the portion of the parties' appeals in which they attempted to challenge the trial court's interlocutory determinations concerning counsel fees issues. Id. at 28-29. Significantly, Mautner had not attempted to challenge the trial court's recent February 11, and March 31, 2015 orders concerning the Yudes and Norris charging liens in her appeal.

Shortly after our April 13, 2015 decision in Goldman III, Mautner filed a notice of appeal challenging the February 11, and March 31, 2015 orders.[4] However, she later withdrew this appeal and we dismissed it administratively.

Thereafter, the trial court conducted additional proceedings and rendered a final decision on May 26, 2016 resolving the remaining counsel fee issues. Goldman IV, (slip op. at 2). Mautner filed a notice of appeal challenging this decision. In that appeal, she did not raise any arguments concerning the Yudes and Norris charging liens or the February 11 or March 31, 2015 orders. On December 26, 2017, we affirmed the trial court's decision. Id. at 4-5. The

[4] Docket No. A-3404-15.

Supreme Court later denied Mautner's petition for certification. 235 N.J. 394 (2018).

In the years that followed, Mautner refused to pay either Yudes or Norris. Yudes eventually filed a lis pendens against a property in Short Hills that Mautner was scheduled to receive in equitable distribution. In October 2020, Mautner filed an action in the Law Division seeking to have the lis pendens discharged. The Law Division granted her request on March 12, 2021 because Yudes had no litigation pending against Mautner. In so ruling, the Law Division judge made clear that she was "not addressing the propriety of the attorney charging lien in and of itself . . . ."

Yudes and Norris then filed motions in the Family Part to enforce the February 11, and March 31, 2015 charging lien orders. Both law firms asked the court to enter judgments in their favor against Mautner for the amounts set forth in these orders. Mautner opposed the firms' motions. She argued that the orders should not be followed because they were interlocutory and should not have been entered. She also argued that the Law Division judge determined the charging liens were not valid.

After conducting oral argument, Judge Marcella Matos Wilson rejected Mautner's arguments and entered judgments in Yudes' and Norris' favor against

Mautner for their unpaid fees and costs. The court found that Mautner never successfully appealed the February 11, and March 31, 2015 orders establishing the charging liens. Therefore, both orders remained in full force and effect and became final when the trial court judge entered its May 26, 2016 final order concluding all then-outstanding matters in the dissolution action. Although Mautner filed a notice of appeal from that order, she did not challenge the charging liens.

Moreover, as stated above, the Law Division specifically stated that it did not address any issue concerning the charging liens when it discharged the lis pendens on the Short Hills property. Therefore, Judge Matos Wilson found that Yudes and Norris were entitled to judgments against Mautner for the fees and costs contained in their respective charging liens as set forth in the February 11, and March 31, 2015 orders. This appeal followed.

On appeal, Mautner raises the same arguments she unsuccessfully presented before Judge Matos Wilson. Mautner contends:

> POINT I
>
> THE TRIAL COURT ERRED IN RELYING UPON THE FEBRUARY 11, 2015 AND MARCH 31, 2015 ORDERS, IN ISSUING ITS JULY 26, 2021 JUDGMENT, SINCE THE SUBJECT MATTER OF COUNSEL AND EXPERT FEES WAS PART OF THE PARTIES' PENDING APPEAL BEFORE THE

APPELLATE DIVISION, AND AS SUCH, THE TRIAL COURT WAS DIVESTED OF JURISDICTION TO HOLD ANY HEARINGS OR ISSUE ANY ORDERS REGARDING SAME; THEREFORE, THE [FEBRUARY 11, 2015 AND MARCH 31, 2015 ORDERS] ARE VOID AS A MATTER OF LAW.

POINT II

THE TRIAL COURT ERRED BY BASING THE JULY 26, 2021 ORDER ON THE FEBRUARY 11, 2015 AND MARCH 31, 2015 ORDERS, WHICH WERE DEEMED INTERLOCUTORY, SINCE THE PRIOR TRIAL COURT MADE NO FINDINGS OF FACT AS TO THE REASONABLENESS OF ALL FEES, NOR THE ALLOCATION OF FEES FOR EACH PARTY, NOR ANY OTHER FACTOR REQUIRED BY THE DECISIONAL LAW, STATUTE, RULES OF COURT AND/OR RULES OF PROFESSIONAL CONDUCT. RULE[] 1:7-4.

POINT III

IT WAS ERROR FOR THE TRIAL COURT TO ENTER A JUDGMENT ON JULY 26, 2021, IN FAVOR OF THE YUDES FIRM IN THE SUM OF $235,895.50 AND A JUDGMENT IN FAVOR OF THE NORRIS MCLAUGHLIN FIRM IN THE SUM OF $158,893.88, WHERE [THE LAW FIRMS] ARE PERMITTED TO RECORD IN THE OFFICE OF THE ESSEX COUNTY CLERK TRUE COPIES OF THE ORDERS DATED FEBRUARY 11, 2015 AND MARCH 31, 2015[] . . . TO PROVIDE RECORD NOTICE OF THE VALIDITY AND ENFORCEABILITY OF THE ATTORNEY'S CHARGING LIENS AGAINST ANY PROPERTY DEFENDANT HAS OR WILL RECEIVE BY

EQUITABLE DISTRIBUTION, INCLUDING DEFENDANT'S PROPERTY LOCATED [IN] . . . SHORT HILLS[] . . . .

POINT IV

IT WAS AGAINST THE WEIGHT OF THE EVIDENCE FOR THE TRIAL COURT TO ENTER THE JULY 26, 2021 ORDER THAT IS IN CONFLICT WITH THE ORDER ENTERED IN THE LAW DIVISION . . . ON MARCH 12, 2021, WHERE THE [LAW DIVISION] JUDGE DETERMINED THERE IS NO PENDING LITIGATION OR ORDER OR JUDGMENT THAT ENTITLES . . . YUDES TO A LEGAL CLAIM ON DEFENDANT'S RESIDENTIAL PROPERTY.

POINT V

THE JULY ORDER IS IN ERROR AS THE LAW FIRMS WAIVED THEIR RIGHT, AND ARE BARRED BY LACHES, THROUGH SUCH FAILURE TO ACT OVER THE COURSE OF FIVE (5) YEARS WHEN THE ATTORNEYS[] HAD SUFFICIENT OPPORTUNITY TO ASSERT THEIR RIGHT TO HAVE THE CHARGING LIEN FEE CLAIMS BE DETERMINED IN THE PROPER FORUM BEFORE THE FINAL JUDGMENT WAS ENTERED ON MAY 26, 2016.

Based on our review of the record and the applicable law, we conclude that Mautner's contentions do not merit extended discussion in a written opinion. See R. 2:11-3(e)(1)(E). We affirm substantially for the reasons expressed by Judge Matos Wilson. We add the following brief comments.

The scope of our review of the Family Part's order is limited. We owe substantial deference to the Family Part's findings of fact because of that court's special expertise in family matters. Cesare v. Cesare, 154 N.J. 394, 411-12 (1998). Thus, "[a] reviewing court should uphold the factual findings undergirding the trial court's decision if they are supported by adequate, substantial and credible evidence on the record." MacKinnon v. MacKinnon, 191 N.J. 240, 253-54 (2007) (alteration in original) (quoting N.J. Div. of Youth & Fam. Servs. v. M.M., 189 N.J. 261, 279 (2007)). In addition, we will not disturb a trial court's order relating to a counsel fee award in a matrimonial case except "on the 'rarest occasion,' and then only because of a clear abuse of discretion." Strahan v. Strahan, 402 N.J. Super. 298, 317 (App. Div. 2008) (quoting Rendine v. Pantzer, 141 N.J. 292, 317 (1995)).

While we owe no special deference to the judge's legal conclusions, Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995), "we 'should not disturb the factual findings and legal conclusions of the trial judge unless . . . convinced that they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice' or when we determine the court has palpably abused its discretion." Parish v. Parish, 412 N.J. Super. 39, 47 (App. Div. 2010)

(quoting Cesare, 154 N.J. at 412). We will reverse the trial court's decision "[o]nly when the [its] conclusions are so 'clearly mistaken' or 'wide of the mark' . . . to ensure that there is not a denial of justice." N.J. Div. of Youth & Fam. Servs. v. E.P., 196 N.J. 88, 104 (2008) (quoting N.J. Div. of Youth & Fam. Servs. v. G.L., 191 N.J. 596, 605 (2007)).

Applying these principles, Mautner's arguments concerning the July 26, 2021 order reveal nothing "so wide of the mark" that we could reasonably conclude the order constituted "a denial of justice." Mautner cannot challenge the February 11, and March 31, 2015 orders in this proceeding because her time to appeal those orders expired years ago. See R. 2:4-1(a) (stating that a party has forty-five days to appeal a trial court's final order). Contrary to Mautner's contention, the Law Division judge's decision concerning the lis pendens Yudes placed on the Short Hills property did not affect its right to seek a judgment against Mautner in the amount of the already established charging lien. Finally, Yudes and Norris repeatedly sought to collect the fees and costs Mautner owed them and, therefore, the doctrine of laches did not bar the law firms from seeking to obtain judgments against Mautner for the amounts due. See Knorr v. Smeal, 178 N.J. 169, 180-81 (2003) (stating that laches may only been "invoked to deny a party enforcement of a known right when the party engages in an inexcusable

and unexplainable delay in exercising that right to the prejudice of the other party.").

In short, the record amply supports Judge Matos Wilson's factual findings and, in light of those findings, her legal conclusions are unassailable. We therefore affirm her July 26, 2021 order in all respects.

Affirmed.

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

CLERK OF THE APPELLATE DIVISION