

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Pomerance v. Pomerance

112 So. 3d 737 (Fla. 4th DCA 2013) · Decided May 8, 2013

SUMMARY

The Florida Fourth District Court of Appeal affirmed a final judgment of dissolution of marriage that incorporated the parties' marital settlement agreement. The court rejected the former husband's arguments concerning modification of alimony, unresolved discovery motions, the hearing procedure, and the calculation of arrearages, while noting that the pending petition for modification was not precluded.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Per Curiam; May, C.J.; Taylor, J.; Gerber, J.
JURISDICTION	Florida
DECIDED	May 8, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Former husband's appeal from a final judgment of dissolution of marriage that approved and incorporated a marital settlement agreement.
STANDARD OF REVIEW	Alimony and child support awards are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential under applicable Florida law.
PARTIES	Former husband v. Former wife

TOPICS

dissolution of marriage

alimony

child support

appellate procedure

standard of review

PRACTICE AREAS

family law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by proceeding with an evidentiary hearing without first finding that the case was ready for trial.
2. Whether the trial court abused its discretion in denying the former husband's petitions to modify alimony and attorney's fees.
3. Whether the trial court improperly failed to rule on the former husband's motions to compel production of financial documents.
4. Whether the trial court improperly stated a lump sum of arrearages without separately specifying the amounts owed for past-due child support and alimony.

HOLDINGS

1. The trial court did not err in proceeding with the scheduled hearing and entering the final judgment approving and incorporating the marital settlement agreement.
2. The appellate court affirmed the final judgment and did not grant modification relief because the pending petition for modification had not been considered by the trial court; the affirmance did not preclude the former husband from proceeding on that pending petition.
3. The trial court's arrearage and payment amounts were not erroneous because the \$1,142.30 biweekly amount accurately reflected the alimony and child-support deductions required by the marital settlement agreement.

FACTUAL BACKGROUND

The parties entered into a marital settlement agreement requiring the former husband to pay durational alimony of \$1,875 per month and child support of \$600 per month through income deductions. The trial court incorporated the agreement into the final judgment, found the former husband in arrears by \$8,821.10 for the period from October 30, 2011, to February 10, 2012, and ordered payment within sixty days. The former husband asserted that his former wife had misrepresented her financial condition and that his unemployment and reduced assets constituted a substantial change in circumstances making the payments unaffordable.

PROCEDURAL HISTORY

The parties entered into a marital settlement agreement after mediation failed to produce an agreement. The trial court entered a final judgment of dissolution, incorporated the agreement, found the former husband in arrears on alimony and child support, and ordered payment of the arrearages. The former husband filed petitions seeking modification based on changed financial circumstances and challenged the judgment and related trial-court rulings on appeal. The appellate court affirmed, while noting that a pending petition for modification had not yet been considered by the trial court.

DISPOSITION

affirmed

CASES CITED

- Chovan v. Chovan, 90 So. 3d 898, 900 (Fla. 4th DCA 2012)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/district-court-of-appeal-of-florida-fourth-district/2013/pomerance-v-pomerance-wnxzlo20>