UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2372

September Term, 2013

CHARLES W. MAIN

v.

TERESA A. MAIN

Meredith,
Woodward,
Friedman,

JJ.

Opinion by Woodward, J.

Filed: July 29, 2015

Charles Main, appellant, and Teresa Main, appellee, were married in 1973 in Frederick County, Maryland. In 2010, the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida ("the Florida court") granted appellee's petition for dissolution of marriage and awarded appellee all interest in the parties' marital home, which is located in Maryland. On July 25, 2012, appellee filed a request to enroll the Florida judgment in the Circuit Court for Frederick County ("the circuit court"). After a hearing, the circuit court enrolled the judgment, but stayed the execution thereof for ninety days to allow appellant to challenge the Florida judgment in Florida. Appellant took no further action in Florida, but, on October 28, 2013, filed in the circuit court, among other motions, a Motion to Mark Registered Foreign Order Null and Void Therefore Non Executable, which was denied on November 21, 2013.

On appeal, appellant presents four questions for our review, which we have rephrased and condensed into one:[1]

[1] Appellant's questions, as originally presented in his brief, are:

1. Why did my attorney not use MD Code Sec8-212(2) at the beginning of case?

2. Why was no mention of Appellant's address in Florida judgment questioned?

3. Is a Foreign Order decreeing conveyance of land located in another state without consent of all parties lawful?

4. How does the full faith and credit clause of the Constitution pertain in this case?

> Did the circuit court err in enrolling the divorce decree entered in Florida?

Because we answer this question in the negative, we shall affirm the judgment of the circuit court.

FACTUAL BACKGROUND

The parties were married in Frederick County, Maryland, on September 22, 1973. The parties own real property with improvements, located at 6441 Paul Rudy Road, Middletown, Maryland ("the marital home"), along with an adjoining seventeen acres of land.

At some point, the parties filed for legal separation in South Carolina.[2] On or about November 13, 2007, a South Carolina court entered an Amended Final Order of Separation, in which it found that appellant spent more than $50,000 on "frivolous activities," failed to pay temporary spousal support in the amount of $8,000 per month from July 15, 2004, and failed to pay attorney's fees and suit money totaling $10,500. The South Carolina court awarded appellee "all right, title and interest in the marital home, subject to the mortgage," and ordered appellant to execute all documents needed to transfer the home to appellee. The South Carolina court also ordered that the seventeen acres adjoining the marital home be sold, with the proceeds divided equally between the parties.

[2] All information regarding the South Carolina proceedings comes from the Florida court's Final Judgment of Dissolution of Marriage. The filings from the South Carolina court are not included in the record before us. The Final Judgment of Dissolution of Marriage indicates that the parties separated in 2003, which is disputed by appellant. We have no further evidence regarding the proceedings between the parties in South Carolina.

Appellee subsequently moved to Duval County, Florida, where she filed a petition for dissolution of marriage. On December 21, 2010, the Florida court issued a Final Judgment of Dissolution of Marriage ("the Florida judgment"). In that judgment, the Florida court noted that it had held a hearing on appellee's petition and heard testimony from appellee and argument from appellee's counsel, but that appellant did not appear at the hearing. Among other findings, the Florida court found that (1) it had personal and subject matter jurisdiction; (2) appellee had been a resident of Duval County, Florida for the six months immediately preceding the filing of the petition; and (3) appellant had not complied with the South Carolina order to execute the documents necessary to transfer the marital home to appellee or cooperate with appellee to sell the adjoining land.

Regarding the Maryland real property, the Florida court ordered the following:

> Given [appellant's] failure to pay alimony when ordered in South Carolina, the frivolous use of marital assets, and the Amended Final Order entered by the South Carolina Court, [appellee] is awarded all right, title and interest in the former Marital Home, subject to the mortgage, located at 6441 Paul Rudy Road, Middletown, Maryland, and [appellant] is ordered to execute all necessary documents to effect the transfer of his interest in the Marital Home to [appellee]. Further, [appellant] shall cooperate with [appellee] to sell the adjoining seventeen (17) acres, with the net proceeds from that sale to be divided equally between the parties. If [appellant] does not cooperate with [appellee] in selling the adjoining seventeen (17) acres, this Court will consider entering a subsequent order requiring [appellant] to transfer all of his rights, title and interest in the adjoining seventeen (17) acres to [appellee].

On July 25, 2012, appellee filed a request to enroll the Florida judgment in the circuit court. On January 28, 2013, a Notice of Registration of Order was sent to appellant. On

March 26, 2013, appellant, through counsel, filed an Opposition to Registration of Order, Motion to Stay Enforcement and Request for Hearing, in which appellant claimed, among other things, that he had no knowledge of the Florida judgment. Appellant asserted that, although he was personally served at a temporary work address in Florida, appellee continued to use that address for service of all subsequent court pleadings. Accordingly, appellant argued, the Florida judgment was not entitled to full faith and credit in Maryland. Appellee filed a response alleging, *inter alia*, that appellant had been personally served in both South Carolina and Florida.

The circuit court held a hearing on June 25, 2013. Both parties appeared with counsel. Appellant argued that the South Carolina court never had jurisdiction, that appellee had filed for separation when the parties were not truly separated, and that appellee had used a wrong address for service of pleadings in the Florida case. Appellant asked the court to stay the Maryland case in order to give him time to go to Florida and challenge the Florida judgment there. On July 31, 2013, the circuit court entered an order enrolling the Florida judgment in Maryland, but staying any execution on the judgment for ninety days from June 25, 2013, and requiring appellant to post a bond of $100,000 within ten days or the stay of execution would be lifted.

On October 3, 2013, appellant and appellant's counsel filed a consent motion to strike counsel's appearance, which was granted by the court. On October 28, 2013, appellant filed *pro se* a Motion to Release Bond and a Motion to Mark Registered Foreign Order Null and

Void Therefore Non Executable. The court denied both motions in orders entered on December 2, 2013. On December 30, 2013, appellant filed a notice of appeal as to the order denying the Motion to Mark Registered Foreign Order Null and Void Therefore Non Executable.[3]

DISCUSSION

Appellant argues that (1) the South Carolina court did not have personal jurisdiction over him; (2) the Florida judgment is invalid because he was not served at the correct residence and because the Florida court lacked the authority to transfer the Maryland property; (3) the circuit court failed to comply with Maryland Rule 8-212; and (4) the full faith and credit clause of the U.S. Constitution does not apply to disposing of property in another state.

Appellee responds that the Florida judgment is valid and is entitled to full faith and credit in Maryland. Appellee contends that the Florida judgment was properly enrolled and served on appellant, and the Notice of Registration of Order was properly issued and served on appellant. Appellee further argues that appellant's reliance on Section 8-212 of the

[3] The parties continued to file motions after appellant filed his notice of appeal. On January 10, 2014, appellant filed a motion to reconsider the court's denial of his Motion to Mark Registered Foreign Order Null and Void Therefore Non Executable and a second Motion to Release Bond, both of which were denied by the circuit court. On January 21, 2014, appellee filed a Petition to Enforce Judgment, to Appoint Trustee to Convey and Sell Real Property and For Appropriate Relief. On February 7, 2014, appellant filed a Motion to Stay Petition to Enforce Judgment to Appoint Trustee to Convey and Sell Real Property and for Appropriate Relief, which the circuit court denied on March 19, 2014. None of the trial court's rulings on these motions affect the instant appeal.

Family Law Article is "misplaced," because appellee never requested that the circuit court exercise its authority under that section. *See* Md. Code (1984, 2012 Repl. Vol.), § 8-212 of the Family Law Article ("FL"). Rather, appellee claims, she is seeking to enforce the enrolled foreign judgment. Finally, appellee asserts that appellant's arguments regarding his residence are "foreclosed" because appellant took no action to challenge the underlying judgment during the ninety-day stay of execution.

The Full Faith and Credit Clause of the United States Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records and judicial Proceedings of every other State." U.S. Const. art. IV, § 1. In Maryland, a foreign divorce decree is entitled to full faith and credit "unless and until it is judicially impeached by proof that [the party obtaining the foreign divorce] did not acquire a valid domicile in [the foreign state]." *Dackman v. Dackman*, 252 Md. 331, 336 (1969), *overruled on other grounds by Eastgate Assocs. v. Apper*, 276 Md. 698 (1976).

In *Brewster v. Brewster*, the Court of Appeals considered a case in which a husband and wife began divorce proceedings in the Circuit Court for Frederick County, in the midst of which the husband took a trip to Arkansas and filed for divorce there. 204 Md. 501, 503 (1954). Divorce proceedings continued in Maryland, and the wife was awarded alimony, which the husband paid until he obtained an absolute divorce in Arkansas. *Id.* The wife filed to suit to enforce the alimony payments, contending that the Arkansas divorce was invalid. *Id.* at 504. The Court observed:

> We are confronted by the fact that although the wife contends that she has consistently challenged the validity of the Arkansas divorce, she has never obtained an adjudication that it was invalid, and the chancellor, although saying that he felt the foreign decree to be without binding effect because the husband had no domicile in that State, never so held, because the husband's illness prevented him from testifying and postponed a hearing and decision on the validity. We have then before the Court an exemplified copy of a foreign divorce decree but which has not been judicially impeached. **The wife, in effect, urges that her mere challenge to its validity is enough to stay its operation in Maryland, and to deny it full faith and credit until the court acts on her allegations of its invalidity. The husband contends that until it is declared to be invalid by a competent court, it must be presumed to be valid and given full faith and credit. We think the husband is right.** The burden of proof is upon the attacker. As was said in *Epstein v. Epstein*, 193 Md. 164, 173, 66 A.2d 381, 384, where the wife had obtained a Florida divorce and the husband was attacking it in the Maryland court: "The Florida divorce decree can be collaterally impeached by proof that the court had no jurisdiction, *e.g.*, that defendant had not acquired a domicile in Florida. Plaintiff has the burden of proving that she had not acquired such a domicile. . . ."

Brewster, 204 Md. at 505 (emphasis added); *see also Madden v. Cosden*, 271 Md. 118, 123 (1974) (holding that a foreign divorce decree was "presumptively valid until judicially impeached"); *Gardner v. Perkins*, 41 Md. App. 632, 639 (1979) ("The burden of proof is on the attacker to establish that the spouse who sought the foreign decree did not acquire a valid domicile in the foreign state or to establish any other facts which would negate the jurisdiction of the foreign court").

Similarly, in the instant case, appellant argues that the Florida judgment is invalid, but there are no facts in the record to support his argument. In his opposition to the request to enroll the Florida judgment, appellant admitted that he was served with the divorce action

while residing in Florida. In the Florida judgment, the Florida court stated that the "Court has jurisdiction of the parties to and the subject matter of this action," and that appellee "has been a resident of Duval County, Florida, for the six months immediately preceding the filing of this Petition." At the hearing before the circuit court, appellant neither proffered nor adduced any evidence disputing those facts. Finally, after requesting and receiving a stay of execution of the Florida judgment in order to challenge it in the Florida court, appellant failed to provide any evidence to the trial court regarding what, if anything, he did in Florida to alter the Florida judgment. We thus conclude that appellant has not met his burden in challenging what otherwise is a valid judgment.[4]

JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED; APPELLANT TO PAY COSTS.

[4] Appellant also argues that the circuit court lacked the authority to enroll the Florida judgment under Section 8-212 of the Family Law Article, which provides that a Maryland court has jurisdiction over property distribution if (1) one of the parties was domiciled in Maryland when the foreign divorce proceeding commenced, and (2) the foreign court did not exercise personal jurisdiction over the party domiciled in Maryland or jurisdiction over the property at issue. *See* Md. Code (1984, 2012 Repl. Vol.), § 8-212 of the Family Law Article. This statute is not relevant to the case *sub judice*, because, even assuming *arguendo* that appellant was domiciled in Maryland when the divorce proceeding commenced in Florida, the Florida court exercised personal jurisdiction over appellant, and the property at issue, as previously discussed.