

STATE OF OHIO)
)ss:
COUNTY OF MEDINA)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

JENNIFER M. BERLOVAN

C.A. No. 13CA0052-M

Appellant

v.

PAUL BERLOVAN

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF MEDINA, OHIO
CASE No. 12 DR 0318

Appellee

DECISION AND JOURNAL ENTRY

Dated: March 31, 2015

CARR, Judge.

{¶1} Appellant, Jennifer Berlovan, appeals the judgment of the Medina County Court of Common Pleas, Domestic Relations Division. This Court affirms.

I.

{¶2} On June 22, 2012, Paul Berlovan (“Husband”) and Jennifer Berlovan (“Wife”) filed a joint petition for dissolution of marriage with minor children. The filing included a separation agreement and a shared parenting plan. Husband and Wife have three minor children, J.B., V.B., and Ja.B. Thereafter, Wife filed a motion to convert the dissolution to divorce, which the trial court granted on August 23, 2012. Wife then filed a complaint for divorce and Husband promptly filed an answer and counterclaim for divorce. The trial court appointed a guardian ad litem (“GAL”) to represent the interests of the children in the matter. At a hearing on June 5, 2013, the parties indicated that they had settled all issues pending between them. Each party was represented by counsel and testified that they had agreed to terms on a separation agreement and

a shared parenting agreement. After hearing testimony from the parties, the trial court indicated that the parties' agreements would be adopted as orders of the court and instructed husband's attorney to prepare the judgment entry. Counsel for husband prepared the entry and submitted it to the court after it had been approved by Wife's attorney, as well as the GAL. The trial court issued its judgment entry of divorce with children on June 17, 2013.

{¶3} Wife filed a timely notice of appeal. Now before this Court, Wife raises four assignments of error.

II.

ASSIGNMENT OF ERROR I

THE TRIAL COURT ABUSED ITS DISCRETION AND ERRED AS A MATTER OF LAW WHEN IT ADOPTED THE SEPARATION AGREEMENT AND SHARED PARENTING PLAN AND FOUND THAT THEY WERE FAIR, JUST, AND EQUITABLE.

ASSIGNMENT OF ERROR II

THE TRIAL COURT ABUSED ITS DISCRETION AND ERRED AS A MATTER OF LAW WHEN IT ADOPTED THE SHARED PARENTING PLAN AND FOUND IT TO BE IN THE BEST INTEREST OF THE CHILDREN.

ASSIGNMENT OF ERROR III

THE TRIAL COURT ABUSED ITS DISCRETION, ERRED AS A MATTER OF LAW, WHEN IT ADOPTED THE AMOUNT OF CHILD SUPPORT FOR MOTHER TO PAY, WHICH FAILED TO CONSIDER THAT THE MOTHER HAD A 50/50 TIME SHARE AND IMPUTED INCOME TO MOTHER, WITHOUT A RECITATION OF THE STATUTORY REQUIREMENTS.

ASSIGNMENT OF ERROR IV

THE TRIAL COURT ABUSED ITS DISCRETION AND ERRED AS A MATTER OF LAW WHEN IT FAILED TO REQUIRE THE PARTIES TO ATTACH A CHILD SUPPORT WORKSHEET ABSENT ANY DEVIATIONS ADDRESSED IN THE JUDGMENT ENTRY AND APPROVED A SHARED PARENTING PLAN WHICH ATTACHED A CHILD SUPPORT WORKSHEET COMPILED AFTER THE DOCUMENTS WERE SIGNED AT THE DIVORCE HEARING.

{¶4} In her first assignment of error, Wife argues that the trial court abused its discretion by finding that the separation agreement and shared parenting plan were fair, just, and equitable. In her second assignment of error, Wife argues that the trial court abused its discretion in finding that the shared parenting plan was in the best interest of the children. In her third and fourth assignments of error, Wife raises various procedural arguments pertaining to the trial court's decision to adopt the separation agreement and shared parenting plan. We do not reach the merits of Wife's assignments of error as they have been waived on appeal.

{¶5} After the parties entered into an agreed upon separation agreement and a shared parenting agreement, Husband's attorney prepared a judgment entry adopting the parties' agreements. The proposed entry was submitted to Wife's attorney for review pursuant to Loc.R. 8.01 of the Medina County Court of Common Pleas, Domestic Relations Division, and the judgment entry was signed by counsel for both parties prior to its journalization on June 17, 2013. Loc.R. 8.01 states, in a pertinent part:

PREPARATION OF JUDGMENT ENTRIES

Except as otherwise provided, the Court may order or direct either party or counsel to prepare and present for journalization a judgment entry. Such party or counsel shall prepare a proper entry and submit same to the opposing party or counsel. The opposing party or counsel shall have five (5) days to approve or reject the judgment entry. In the event of rejection, the opposing party or counsel shall file with the Court, at the time of such rejection, either a written statement of the objections to the proposed entry or that party's own proposed entry. This subsection shall not apply to uncontested matters where the opposing party has made no answer or appearance, or dissolutions of marriage.

While Loc.R. 8.01 provides a mechanism to allow a party to object to the terms of a judgment entry, Wife failed to do so in this case. As Wife's attorney signed and approved the judgment entry adopting the parties' agreements instead of objecting to its terms, she has waived any substantive challenges to the terms of the separation agreement and shared parenting agreement

on direct appeal. *See Paletta v. Paletta*, 68 Ohio App.3d 507, 509 (8th Dist.1990); *Mozes v. Mozes*, 8th Dist. Cuyahoga No. 66996, 1994 WL 590517, *1 (Oct. 27, 1994) (“A reviewing court will not reverse an agreed judgment entry.”). “Having expressly approved the judgment entry through counsel and having failed to otherwise bring the asserted error to the attention of the trial court, [the party] has waived the asserted error and may not raise it for the first time on appeal.” *Becka v. Downing*, 8th Dist. Cuyahoga No. 62022, 1992 WL 25300, *1 (Feb. 13, 1992), citing *Downing v. Downing*, 8th Dist. Cuyahoga No. 42993 (Apr. 16, 1981). Even without the existence of the local rule, it is axiomatic that a party cannot urge the court to adopt an agreed judgment entry and then claim on appeal that the trial court erred by taking the requested action.

{¶6} To the extent that Wife believes that she entered into the separation agreement or shared parenting plan unwillingly or under duress, the appropriate mechanism for relief would be a motion to vacate pursuant to Civ.R. 60(B). *See Quebodeaux v. Quebodeaux*, 102 Ohio App.3d 502, 505 (9th Dist.1995).

{¶7} Wife’s assignments of error are overruled.

III.

{¶8} Wife’s assignments of error are overruled. The judgment of the Medina County Court of Common Pleas, Domestic Relations Division, is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

DONNA J. CARR
FOR THE COURT

HENSAL, P. J.
WHITMORE, J.
CONCUR.

APPEARANCES:

KANI HARVEY HIGHTOWER, Attorney at Law, for Appellant.

CAMERON B. PEDRO, Attorney at Law, for Appellee.