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2018 IL App (3d) 170465-U

Order filed May 14, 2018

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2018

CAROLE WALLER,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Plaintiff-Appellant,)	Tazewell County, Illinois.
)	
v.)	Appeal No. 3-17-0465
)	Circuit No. 12-L-48
UDI #10, LLC,)	
)	Honorable Michael D. Risinger,
Defendant-Appellee.)	Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Presiding Justice Carter and Justice O'Brien concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence supports the trial court's decision to grant defendant's motion to enforce the settlement agreement.

¶ 2 Plaintiff, Carole Waller, appeals from the trial court's order granting defendant, UDI # 10, LLC's, motion to enforce the settlement agreement. She asserts that the agreement is not valid because "there was not a meeting of the minds." We affirm.

¶ 3 **FACTS**

¶ 4 In July 2010, plaintiff’s husband, Robert, died while in defendant’s care. In May 2016, plaintiff filed a complaint alleging that defendant violated the Illinois Nursing Home Care Act (210 ILCS 45/1-101 *et seq.* (West 2016)) and the Illinois Wrongful Death Act (740 ILCS 180/0.01 *et seq.* (West 2016)).

¶ 5 In January 2017, defendant extended a settlement offer of \$160,000 “as full and final settlement *** of all claims” plaintiff might have. Plaintiff, through her counsel, accepted the offer on March 1, 2017. As of May 19, 2017, however, plaintiff failed to execute the written release contemplated by the settlement agreement. On that date, plaintiff’s counsel informed defense counsel that plaintiff’s son, John, convinced her not to sign the written release.

¶ 6 On May 30, 2017, defendant filed a motion to enforce the settlement agreement. The hearing was scheduled for June 27, 2017. On the morning of the hearing, plaintiff filed a written response to defendant’s motion, admitting “that she accepted the settlement offer” but that she “was confused by the information when she gave authority to accept settlement” and that as a result of her confusion, “a meeting of the minds did not take place.”

¶ 7 At the hearing on its motion, defendant stood on its pleading without presenting further evidence.

¶ 8 Plaintiff testified that she gave counsel the authority to accept the \$160,000 settlement offer, that she “underst[oo]d what the settlement offer was when [counsel] explained it to [her],” and that “there was no confusion in regard to what the settlement offer was.” Plaintiff agreed that sometime after accepting the settlement offer, she told counsel that she “no longer wanted to be part of that settlement.”

¶ 9 Plaintiff’s son, John Waller, testified that he found out plaintiff accepted a settlement offer after the fact, but stated that plaintiff “did not want to settle the case.” John further testified:

“She was confused when she got involved. She thought she talked to me and she didn’t. I knew a little bit more about the case, but she got convinced that if she ever passed away, nobody gets nothing.” On cross-examination, John testified that he “personally signed the consent” for plaintiff to be named the administrator of his father’s estate in May 2016 and that he attended the August 2016 mediation at which point plaintiff “was doing pretty good.” He agreed that he “never filed anything to indicate that [plaintiff] was incompetent or incapable of understanding what was going on.” John admitted to being “very upset” at mediation.

¶ 10 Plaintiff attached medical records as an exhibit to her response to defendant’s motion to enforce the settlement agreement. The first concerned a February 23, 2017, office visit with Advance Practice nurse Jonathon Rider, at which time plaintiff reported concerns regarding her memory failing. The second concerned a June 19, 2017, office visit with Dr. Michael Honan that reported plaintiff’s “judgment and insight intact, judgment for everyday activities and social situations within normal limits, insight intact.” Honan reported plaintiff’s mood as normal and her affect as appropriate. A third “patient appointment report” showed plaintiff cancelled four appointments and rescheduled three appointments. This report also included a handwritten note apparently signed by plaintiff dated June 26, 2017, that stated she “forgot to go to a few [doctor] appointments” and that she “finally *** met with [APN] Rider and we discussed my memory problems.” Plaintiff stated, “I am concerned because I have been making errors with my bookkeeping and financial decisions.”

¶ 11 After considering the evidence presented at the hearing, including plaintiff’s medical records, the trial court granted defendant’s motion to enforce the settlement. The court noted, “It’s very, very clear that there was a negotiated settlement agreed to by all parties and now there’s sour grapes, and that doesn’t cut it, so motion granted.” Thereafter, the court entered a

written order granting defendant’s motion to enforce settlement, ordered plaintiff to petition the probate court for approval of the settlement, and to provide an executed release approving the settlement.

¶ 12 Plaintiff appeals.

¶ 13 ANALYSIS

¶ 14 Plaintiff asserts that the trial court erred in granting defendant’s motion to enforce the settlement because “there was not a meeting of the minds.”

¶ 15 We will not disturb a trial court’s decision regarding a motion to enforce a settlement agreement unless its decision is against the manifest weight of the evidence. *K4 Enterprises, Inc. v. Grater, Inc.*, 394 Ill. App. 3d 307, 312 (2009). A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent from the record or where a decision is palpably erroneous and wholly unwarranted. *Id.*

¶ 16 Plaintiff’s one-paragraph argument on appeal admits that she “testified at hearing she clearly understood the terms of the agreement and accepted” the settlement offer but asserts that the testimony of her son and the medical records submitted “clearly demonstrate[] she had an inability to have a meeting of the minds” because “she had memory issues” and “could not comprehend a settlement offer.”

¶ 17 It is well settled that “[a] settlement agreement is in the nature of a contract and is governed by principles of contract law. *Id.* at 313. Plaintiff essentially asserts that the settlement agreement is not valid because “there was not a meeting of the minds.” We note, however, that a “meeting of the minds” is just another way of saying that the parties mutually assent to the essential terms and conditions of the contract. *Id.* Plaintiff acknowledges on appeal, as she did

