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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

RAMIN E. NATAN,

Plaintiff and Respondent,

v.

NEDA NATAN,

Defendant and Appellant.

B280287

(Los Angeles County  
Super. Ct. No. BC442355)

APPEAL from a judgment of the Superior Court of Los Angeles County, Mark A. Borenstein, Judge. Affirmed.

RaichelsonLaw and Michael H. Raichelson for Defendant and Appellant.

Sean A. Goodman for Plaintiff and Respondent.

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In this contract action, plaintiff and respondent Ramin E. Natan (Mr. Natan) recovered a money judgment against defendant and appellant Neda Natan (Ms. Natan) and others. Mr. Natan recorded an abstract of judgment and filed a notice of lien against Ms. Natan's potential recovery in another case.

In this appeal, Ms. Natan challenges the denial of her post-judgment motion to expunge the abstract of judgment and notice of lien. Finding no error, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The parties were formerly married to one another and have three children. Mr. Natan initiated the couple's divorce proceedings in May 2010. (*In re Marriage of Natan*, Super. Ct. L.A. County, 2015, No. BD522371 (the divorce case).)

Several months later, Mr. Natan filed the present action against Ms. Natan and several of her relatives for breach of contract and other claims based on the nonpayment of a loan. (*Ramin E. Natan v. Omid Michael Foladi et al.*, Super. Ct. L.A. County, 2011, No. BC442355 (the contract action).) On August 30, 2011, Mr. Natan recovered a judgment in the amount of \$308,450 against Ms. Natan and her relatives.

A judgment of dissolution (status only) was entered in the divorce case in November 2012. The family court reserved jurisdiction over the parties' remaining issues pertaining to child support and division of community property. In May 2015, the parties settled the reserved issues in that case. Each party was represented by counsel during the settlement negotiations. Counsel for one of the parties wrote the settlement terms by hand on a Judicial Council Stipulation/Settlement Agreement FAM 024 Form. The handwritten terms were incorporated into a

typewritten proposed judgment which the parties and their counsel submitted to the family law court. That court entered a final judgment of dissolution on May 26, 2015 (2015 divorce judgment or final judgment of dissolution).

Later, Ms. Natan brought a malpractice action against her former counsel in the divorce case. (*Natan v. Law Offices of Korol & Velen*, Super. Ct. L.A. County, 2016, No. BC576447.) As a judgment creditor, Mr. Natan filed a notice of lien in the malpractice action.

Ms. Natan viewed Mr. Natan's enforcement effort as a violation of the 2015 divorce judgment, and filed a motion in the contract action seeking to expunge the notice of lien and abstract of judgment. She provided the trial court with the handwritten settlement agreement and 2015 divorce judgment, and cited the waiver provision found in paragraph 38 of that judgment. Paragraph 38 stated that the parties "forever waive[d] any claims against the other for all credits, debits, and reimbursements."

In her accompanying declaration, Ms. Natan asserted that this language constituted an implicit reference to the breach of contract judgment, which constituted a "claim" that was forever waived by Mr. Natan in the 2015 divorce judgment. In her declaration, she asserted that during the settlement negotiations she had stipulated to a reduced monthly income figure for Mr. Natan, and that this figure was used to calculate his reduced monthly child support obligation of \$9,000. She claimed that her forensic accountant had determined Mr. Natan's actual monthly income to be \$69,791, but she had stipulated to a lesser figure of \$50,000 in order to obtain a credit—based on the reduction in his child support obligation—that offsets her obligation under the contract judgment.

Mr. Natan disputed Ms. Natan's account of the settlement negotiations. He argued the family law court did not divide the contract judgment, which is not a community asset subject to division in a divorce case. He asserted that the omission of the contract judgment from the settlement agreement and final judgment of dissolution was intentional due to the lack of a settlement of the contract action in the divorce case. He also argued that he never waived his right to enforce the contract judgment against other assets beyond the scope of the family court's jurisdiction, including Ms. Natan's potential recovery in the malpractice case. He disagreed that paragraph 38 implicitly referred to the contract judgment as a claim, arguing that the phrase "credits, debits, and reimbursements" is a term of art in divorce cases, and refers to disputed issues of financial support and division of community assets. He pointed out that no satisfaction of judgment was provided to Ms. Natan, which contradicts her theory that she was released from the contract judgment in the divorce case.

Mr. Natan submitted the pre-settlement letters exchanged between his divorce counsel, Wallace Fingerett, and Ms. Natan's former counsel, Rozanna Velen. He argued the letters were relevant to show that the parties did not agree to settle the breach of contract judgment in the divorce case.

In reply, Ms. Natan voiced no objection to the admission of the attorney settlement letters, but argued they were irrelevant because they did not reflect the final settlement terms.<sup>1</sup> She

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<sup>1</sup> However, Ms. Natan did object to the admission of Mr. Natan's purported impeachment evidence regarding a criminal action brought against her and members of her family for Medi-Cal fraud. In response to Mr. Natan's assertion that she had

provided an additional declaration in which she explained that notwithstanding her initial inability to settle the entire contract judgment (which would have benefited her codefendants), she eventually obtained a release of her own obligation as part of the final settlement agreement.

The trial court rejected Ms. Natan's analysis and arguments. It found the terms of the dissolution settlement agreement were clear and unambiguous. The contract judgment was neither a community property asset subject to division in the divorce case, nor a "credit, debit, or reimbursement" subject to waiver under paragraph 38. The court found no evidence to support Ms. Natan's position that an agreement had been reached to release her from the contract judgment.

In the court's analysis, the final judgment of dissolution simply precluded Mr. Natan from levying against the payments and assets assigned to Ms. Natan in the divorce case, but left all other assets within his reach as judgment creditor. The court cited paragraph 31 of the 2015 divorce judgment, which stated: "Petitioner [Mr. Natan] shall be, and hereby is, prohibited from attempting to levy upon any of the payments referenced herein to Respondent [Ms. Natan], inclusive of any accounts or assets containing same and/or derivative therefrom, or the Toyota automobile awarded to Respondent herein." This, the court stated, was the extent of the protection afforded by the divorce decree, "despite whatever Ms. Natan might have believed."

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been convicted of a felony, Ms. Natan pointed out that his evidence showed that her conviction had been expunged. The trial court sustained her objection and excluded the disputed evidence regarding the criminal action.

The court found no extrinsic evidence that disclosed the existence of a latent ambiguity on this issue. To the extent the attorney settlement letters reflected Ms. Natan's desire to extinguish the contract judgment, the trial court found that the final settlement terms fell short of that objective. The court reasoned that, had Ms. Natan succeeded in extinguishing the contract judgment, this would have been specifically mentioned in the settlement agreement and final judgment of dissolution.

In response to the court's statements, Ms. Natan made a personal appeal. In her address to the court, she stated that when she waived her right to present evidence of Mr. Natan's actual monthly income, she did so because she believed she would be released from the contract judgment. If she is made to pay the contract judgment, she argued, she will lose everything, including the house and the community property.

The trial court replied that notwithstanding Ms. Natan's subjective belief, the divorce settlement did not include a release of the contract judgment. The court denied the motion. This timely appeal followed.

## **DISCUSSION**

Resolution of this appeal turns on whether the waiver provision in paragraph 38 of the 2015 divorce judgment is susceptible to two different reasonable interpretations. Ms. Natan contends the provision is ambiguous, and, based on the sole admissible evidence of the parties' intentions, the trial court's ruling must be reversed. We do not agree.

"If a contract is capable of two different reasonable interpretations, the contract is ambiguous.' [Citation.]"  
(*Oceanside 84, Ltd. v. Fidelity Federal Bank* (1997) 56

Cal.App.4th 1441, 1448.) In determining whether a contract is ambiguous, we look to the language of the contract itself, as well as the extrinsic evidence of the parties' intent. (*Ibid.*)

Significantly, no express reference to the contract judgment appears in either the settlement terms stated in the Judicial Council Form 024, or the final judgment of dissolution which incorporated the settlement terms. Ms. Natan argues that an implicit waiver of the contract judgment appears in paragraph 38 of the 2015 divorce judgment, based on her interpretation that the contract judgment constitutes a "claim" which is subject to the waiver provision. She argues this is reasonable based on her state of mind during the settlement negotiations as shown in her declaration. Mr. Natan argues that Ms. Natan's interpretation is unreasonable in light of the plain language of the settlement agreement.

We conclude the interpretation that the contract judgment constitutes a "claim" which is subject to paragraph 38 is not reasonable. Both Ms. Natan's declaration and the attorney settlement letters showed that the unpaid contract judgment constituted an issue of importance to the parties. Given its importance, a specific reference to the contract judgment would have appeared in the settlement agreement had the parties intended that Ms. Natan be released from the contract judgment as part of the divorce decree. Mr. Natan's failure to provide Ms. Natan with a satisfaction and release strongly suggests the absence of an agreement on this vital subject.

Our determination is supported by paragraph 31 of the 2015 divorce judgment. This provision placed the payments and assets received by Ms. Natan in the divorce case beyond the reach of her judgment creditor, Mr. Natan. But nothing in paragraph

31 or the entirety of the settlement agreement precludes Mr. Natan from pursuing other assets—such as Ms. Natan’s potential recovery in the malpractice action—not involved in the divorce action.

**DISPOSITION**

The post-judgment order is affirmed. Mr. Natan is entitled to his costs on appeal.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

COLLINS, J.