

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KAREN HUI GUO,
Appellant,
vs.
XIAO GENG,
Respondent.

No. 82599-COA

KAREN HUI GUO,
Appellant,
vs.
XIAO GENG,
Respondent.

No. 83771-COA

FILED

AUG 16 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Karen Hui Guo appeals from a district court order dismissing her complaint for breach of contract and detrimental reliance filed as a civil action and an order denying enforcement of a proposed stipulated divorce decree, which have been consolidated for purposes of this appeal. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge; Eighth Judicial District Court, Family Division, Clark County; Matthew Harter, Judge.

Karen and respondent Xiao Geng met in approximately 2000 and began a sporadic dating relationship in China.¹ Approximately one year later, Xiao ended the relationship. In 2006, Karen was living in New York, and Xiao rekindled their relationship before ending it again one year later. In approximately 2012, Xiao reconnected with Karen, who was then living in China. At that time, Karen was working at a private equity firm earning approximately \$200,000 a year. Karen contends that Xiao orally

¹We do not recount the facts except as necessary to our disposition.

promised Karen that if she relocated with him to the United States, he “would take care of her for the rest of her life and she wouldn’t have to work again.” Karen agreed, leaving her employment and home in China to move with Xiao to the United States and become a homemaker.

The parties participated in a “culturally significant and traditional [commitment] ceremony” in China in May 2012, and legally married in Las Vegas in February 2013. Eventually, the parties’ relationship deteriorated, and in 2018 Xiao filed a complaint for divorce in the Eighth Judicial District Court’s Family Division (family court).² Due to concerns about whether the parties had resided in Nevada for a sufficient time to comply with statutory residency requirements, the parties stipulated to dismiss Xiao’s divorce case on September 29, 2020. Before the dismissal, however, the parties attempted to reach a settlement. Xiao’s counsel prepared a proposed draft of a stipulated divorce decree (proposed stipulated decree). The proposed stipulated decree divided the parties’ respective property and stated that Xiao would pay Karen \$100,000 in a lump sum as non-modifiable alimony. However, the parties could not reach agreement on certain terms and therefore never signed the proposed stipulated decree.

On October 7, 2020, Xiao filed a new complaint for divorce. More than two weeks later, Karen in turn filed a civil complaint in pro se in district court, asserting a claim of breach of contract and detrimental

²We recognize that civil/criminal courts and family courts in the Eighth Judicial District are both properly referred to as district courts. For convenience in this order, however, we refer to district court as the court where the civil case was pending and family court as the court where the divorce proceedings occurred.

reliance based upon Xiao's alleged promise to financially provide for her the rest of her life.

In her civil complaint, Karen alleged:

After pursuing Karen through several countries and over the course of many years, Xiao, who was well aware that Karen had started a new life and was gainfully employed, nonetheless asked her to quit her job and offered to take care of her such that she would not have to work for the rest of her life.

In exchange, Xiao asked that Karen marry him and move to the United States.

In reliance upon Xiao's promise of care, Karen accepted his offer and agreed to marry Xiao in a traditional ceremony in China as well as in a legal proceeding in Nevada.

After being served with the civil complaint, Xiao filed a motion to dismiss. Primarily, Xiao argued that Karen's claims should be addressed in the pending divorce case as they arose out of the marital relationship, and that Karen was attempting to delay the divorce proceedings by filing the civil complaint. Karen filed a motion for leave to amend her complaint, and in her proposed second amended complaint, she removed the provision that the parties' oral agreement was predicated on Karen agreeing to marry Xiao, and therefore, the case was properly filed as a civil action.

Significantly, before amending her complaint in the civil case, Karen filed an answer and counterclaim in the second divorce case in November 2020, alleging that an oral agreement in contemplation of marriage had been made. Her answer stated:

After pursuing Karen through several countries and over the course of many years, Xiao, who is well aware that Karen had started a new life and was gainfully employed, nonetheless asked her

to quit her job and offered to take care of her such that she would not have to work for the rest of her life. In exchange, Xiao asked that Karen marry him and move to the United States. In reliance of Xiao's promise of care, Karen accepted the offer and agreed to marry Xiao in a traditional ceremony in China and as well as a legal proceeding in Nevada.

The district court held a hearing on Xiao's motion to dismiss Karen's civil suit. During the hearing, Xiao's counsel argued that the case should be dismissed due to the pending divorce case and read aloud Karen's answer and counterclaim in the divorce case. Karen argued that Xiao should financially compensate her for breaking his promise, which was independent of their subsequent decision to marry. The district court ultimately dismissed the case, finding that Karen's claims should be heard in the pending divorce case filed in family court. Docket No. 82599-COA is Karen's appeal from that ruling.

The parties then continued to litigate in family court. Karen filed a motion to enforce the proposed stipulated decree, although she acknowledged that (1) she had previously requested changes to the document, (2) Xiao had neither agreed nor responded to those changes, and (3) the proposed stipulated decree was never signed. Nevertheless, Karen alleged that the proposed stipulated decree was a valid and enforceable agreement because the parties had agreed to the material terms. Xiao opposed Karen's motion on the basis that they had not reached an agreement as there were still unresolved material terms, including the amount of the lump sum non-modifiable alimony payment, and a professional liability waiver. The family court set an evidentiary hearing to resolve the issue. At the evidentiary hearing, Karen's counsel acknowledged that Karen was not pursuing an independent claim for alimony but only seeking enforcement of the proposed stipulated decree,

which contained an alimony clause. After the evidentiary hearing, the court denied Karen's motion. The district court found that Karen admitted that there was no agreement reached between the parties. The court also found that Karen's refusal to agree to the professional liability waiver requested by Xiao precluded enforcing the proposed stipulated decree. Subsequently, the court entered a decree of divorce concluding that there was no community property or debt to allocate and awarding each party their separate property. The court did not award alimony to either party.³ Docket No. 83771-COA is Karen's appeal from that ruling. This court consolidated these appeals for purposes of oral argument and disposition.

Docket No. 82599-COA

On appeal in Docket No. 82599-COA, Karen argues that the district court erred in determining that it lacked jurisdiction over Karen's civil complaint as NRS 3.223 does not vest original and exclusive jurisdiction in the family court over the claims raised by Karen in her civil complaint. Conversely, Xiao contends that dismissal of the civil complaint was appropriate because Karen's claims were within the sole purview of the family court's jurisdiction.

A district court's decision to dismiss a complaint for lack of subject matter jurisdiction is reviewed de novo. *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009); *Viega, GMBH v. Eighth Judicial Dist.*

³We note that an independent award of alimony, outside of the proposed decree, was waived below. Therefore, we need not consider whether the family court should have awarded Karen alimony, separate and apart from the alimony provision in the unenforceable proposed stipulated decree. See *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

Court, 130 Nev. 368, 374, 328 P.3d 1152, 1156 (2014). “Because the interpretation of a statute is a question of law, the proper standard of review is de novo.” *Irving v. Irving*, 122 Nev. 494, 496, 134 P.3d 718, 720 (2006). “In interpreting a statute, this court looks to the plain language of the statute, and if that language is clear, this court does not go beyond it.” *Valenti v. State, Dep’t of Motor Vehicles*, 131 Nev. 875, 879, 362 P.3d 83, 85 (2015). Additionally, the district court’s factual findings are given deference if supported by substantial evidence. *Ogawa*, 125 Nev. at 668, 221 P.3d at 704.

Subject matter jurisdiction is defined as “[j]urisdiction over the nature of the case and the type of relief sought; the extent to which a court can rule on the conduct of persons or the status of things.” *Jurisdiction, subject-matter jurisdiction, Black’s Law Dictionary* (11th ed. 2019). NRS 3.220 provides that district court judges “possess equal coextensive and concurrent jurisdiction and power,” while NRS 3.223 specifically provides that the family court “has original, exclusive jurisdiction” over certain enumerated matters affecting the familial unit including divorce, marriage contracts, alimony, and community and separate property. However, the Nevada Supreme Court has concluded that a “district court judge sitting in the family court division [does] not lack the power and authority to dispose of [a] case merely because it involve[s] a subject matter outside the scope of NRS 3.223.” *Landreth v. Malik*, 127 Nev. 175, 184, 251 P.3d 163, 169 (2011).

While we acknowledge that concurrent subject matter jurisdiction may exist, we see no basis to reverse the district court’s decision to cede jurisdiction to the family court to resolve the agreement the parties entered before marriage. Importantly, the family court was already exercising jurisdiction over the parties’ pending and ongoing divorce case

and would necessarily resolve disputes concerning alimony or other financial compensation and the distribution of real and personal property. Thus, Karen could seek the same type of relief in family court in the divorce proceedings that she sought in district court by filing her civil complaint. *See Cty. of Clark, ex rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 753, 961 P.2d 754, 757 (1998) (noting that judicial economy is an important consideration in the litigation process); *see also Fitzharris v. Phillips*, 74 Nev. 371, 376, 333 P.2d 721, 724 (1958) (holding that it would be “contrary to fundamental judicial procedure to permit two actions to remain pending between the same parties upon the identical cause”), *abrogated on other grounds by Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000). Therefore, under these particular facts, we conclude that the district court did not err in declining to exercise subject matter jurisdiction and in dismissing Karen’s civil complaint so that the parties could proceed in family court.⁴

Docket No. 83771-COA

On appeal in Docket No. 83771-COA, Karen argues that the family court erred in determining that there was no enforceable settlement between the parties because the parties agreed to the material terms of the proposed stipulated decree. Conversely, Xiao argues that Karen failed to present evidence to support the conclusion that a settlement was reached by the parties.

A district court order concerning a motion to enforce a settlement is reviewed for an abuse of discretion. *Grisham v. Grisham*, 128

⁴We note that Karen acknowledged at oral argument that the family court had concurrent subject matter jurisdiction and could have heard and resolved her civil claims.

Nev. 679, 686, 289 P.3d 230, 235 (2012). The party asserting the existence of a settlement bears the burden of proof to clearly establish that there was a meeting of the minds of the parties. See *Pederson v. First Nat'l Bank of Nev.*, 93 Nev. 388, 392, 566 P.2d 89, 92 (1977). A settlement agreement is a contract, and "its construction and enforcement are governed by principles of contract law." *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005); see also *Grisham*, 128 Nev. at 685, 289 P.3d at 234 (providing that an agreement between parties to resolve property issues pending divorce litigation is governed by general contract principles). Thus, an enforceable settlement agreement requires an offer and acceptance, meeting of the minds, and consideration. *Grisham*, 128 Nev. at 685, 289 P.3d at 234. "In the case of a settlement agreement, a court cannot compel compliance when material terms remain uncertain." *May*, 121 Nev. at 672, 119 P.3d at 1257; see also *Certified Fire Prot. Inc. v. Precision Constr., Inc.*, 128 Nev. 371, 378, 283 P.3d 250, 255 (2012) (determining that a contract is formed upon the meeting of the minds of the parties as to the essential terms).⁵ Because the determination as to whether a contract exists is a question of fact, this court must uphold the court's factual findings if supported by substantial evidence. See *May*, 121 Nev. at 672-73, 119 P.3d at 1257; see also *Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000) (noting that this court is not at liberty to reweigh evidence on appeal).

Here, the record supports that the parties did not reach an agreement on the proposed stipulated decree. For example, at the evidentiary hearing Karen acknowledged that she made statements

⁵A material or essential term is one that is of such a nature that it "would affect a person's decision-making; significant; essential." *Material Term*, *Black's Law Dictionary* (11th ed. 2019).

confirming that the parties had not reached an agreement, due in part to the lack of an agreement on the professional liability waiver. Additionally, she testified that she continued to request additional terms to the proposed stipulated decree after she stated that the purported settlement was reached. See *Heffern v. Vernarecci*, 92 Nev. 68, 70, 544 P.2d 1197, 1198 (1976) (“Where essential terms of a proposal are accepted with qualifications, or not at all, an agreement is not made.”).

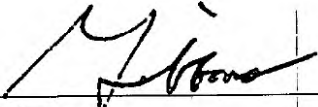
To the extent Karen argues that the material terms of the proposed stipulated decree were the terms describing the distribution of property and debt and \$100,000 in a lump sum as non-modifiable alimony, and that the parties had agreed to these terms, we are not persuaded. At the evidentiary hearing, Xiao testified that Karen continued to request a different alimony amount, even after the purported agreement was reached. When material terms such as the amount of alimony remain unresolved, a binding agreement cannot exist. See *Loma Linda Univ. v. Eckenweiler*, 86 Nev. 381, 384, 469 P.2d 54, 56 (1970); see also *Nev. Power Co. v. Pub. Util. Comm’n*, 122 Nev. 821, 839-40, 138 P.3d 486, 498-99 (2006) (stating that “[w]hen essential terms such as [time periods or price] have yet to be agreed upon by the parties, a contract cannot be formed”), *superseded by statute on other grounds as stated in Southwest Gas Corp. v. Pub. Utilities Comm’n of Nev.*, 138 Nev. 37, 504 P.3d 503 (2022). Thus, substantial evidence supports the district court’s conclusion that no enforceable agreement was reached between the parties.⁶ Additionally, the parties did not sign a stipulated

⁶To the extent Karen argues that the family court erred in finding that her refusal to agree to the professional liability waiver was a material term that precluded enforcement of the proposed stipulated decree, we need not reach the issue because substantial evidence supports the court’s


decree, nor place the terms of the alleged settlement on the record. Cf. *Lehrer McGovern Bovis, Inc. v. Bullock Insulation, Inc.*, 124 Nev. 1102, 1118, 197 P.3d 1032, 1042 (2008) (noting that to constitute a valid settlement, “a stipulation requires mutual assent to its terms and either a signed writing by the party against whom the stipulation is offered or an entry into the court minutes in the form of an order”). Therefore, the family court did not abuse its discretion in denying Karen’s motion to enforce the proposed stipulated decree.⁷

In light of the foregoing, we affirm the district court’s order dismissing Karen’s complaint in Docket No. 82599-COA and the family court’s order denying enforcement of the proposed stipulated decree in Docket No. 83771-COA.


It is so ORDERED.



Gibbons C.J.



Bulla J.



Westbrook J.

finding that the parties did not reach an agreement, independent of the disputed materiality of this particular provision. See *May*, 121 Nev. at 672-73, 119 P.3d at 1257.

⁷Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered them and conclude that they either do not present a basis for relief or need not be reached given our disposition of this appeal.

cc: Hon. Timothy C. Williams, District Judge
Presiding Judge, Eighth Judicial District Court, Family Division
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