

STATE OF MICHIGAN
COURT OF APPEALS

LINDA M. OXFORD f/k/a LINDA M. BOWERS,
Plaintiff-Appellee,

UNPUBLISHED
August 8, 2013

v

WILLIAM L. BOWERS,
Defendant-Appellant.

No. 308746
Oakland Circuit Court
LC No. 2011-121167-CK

Before: BORRELLO, P.J., and K. F. KELLY and MURRAY, JJ.

MEMORANDUM.

Defendant appeals as of right an order granting plaintiff's motion to enforce a property settlement agreement that was incorporated but not merged into the parties' February 8, 2006, judgment of divorce. Because we conclude that the civil division of the circuit court lacked jurisdiction over the claims asserted in this action, we remand for dismissal of this case.

Having reviewed the parties' supplemental briefs, we conclude that, regardless of whether the family division of the circuit court had sole and exclusive jurisdiction to enforce the parties' property settlement agreement as an "ancillary matter" under MCL 600.1021(1)(a), in the judgment of divorce, the family division expressly provided that it retained "jurisdiction to enforce the property settlement and other provisions in the Judgment of Divorce." Accordingly, the family division was the proper venue in which to raise the issues presented in this case and plaintiff should have moved to enforce the settlement agreement in the context of a post-judgment filing in the divorce case. Because the civil division of the circuit court lacked jurisdiction, its order granting plaintiff's motion to enforce the settlement agreement is void and the action should have been dismissed. See *Bowie v Arder*, 441 Mich 23, 56; 490 NW2d 568 (1992).

We remand for the entry of an order dismissing this action. We do not retain jurisdiction. Neither party having fully prevailed, neither may tax costs. MCR 7.219.

/s/ Stephen L. Borrello
/s/ Kirsten Frank Kelly
/s/ Christopher M. Murray