

Circuit Court for Anne Arundel County
Case No. 02-C-13-182114

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 172

September Term, 2019

ON MOTION FOR RECONSIDERATION

EVELYN FAYE CARTRETTE

v.

R.A. BROOKLYN PARK, LLC

Fader, C.J.,
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 3, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Evelyn Faye Cartrette, appellant, moves for reconsideration of our opinion, filed on June 12, 2020, in which we affirmed the denial, by the Circuit Court for Anne Arundel County, of a “Motion under Rule 2-535(b) to Vacate Erroneously Entered Money Judgments and Opposition To Release Of Funds Held by Court Registry” (hereinafter “the motion to vacate”) and subsequent motion for reconsideration. We shall grant the motion for reconsideration and vacate our opinion of June 12, 2020. Nevertheless, we shall again affirm the judgments of the circuit court, albeit on a different ground.

Ms. Cartrette and R.A. Brooklyn Park, LLC (“R.A. Brooklyn Park”), appellee, have appeared in this Court before. We recount some of the pertinent facts from our previous opinion in the parties’ dispute:

Cartrette was formerly married to Bernard Odell Jeffers. Jeffers was the sole owner of Brooklyn Cycle World, Inc., a motorcycle dealer. When they divorced, Jeffers was ordered to pay Cartrette a monetary award of approximately \$2.3 Million and indefinite alimony of \$7,500 per month. Jeffers did not comply with all of these obligations and owed Cartrette money. When Brooklyn Cycle then sold real property, Cartrette first attempted to garnish proceeds belonging to Jeffers and then filed suit against the purchaser, [R.A.] Brooklyn Park, LLC, alleging fraudulent conveyance and seeking to set aside the transfer. The parties filed cross motions for summary judgment. The circuit court granted [R.A.] Brooklyn Park’s motion and denied Cartrette’s. Thereafter, the circuit court found that Cartrette’s lawsuit had been brought “in bad faith and without substantial justification” and awarded attorneys’ fees in the amount of \$21,288.17. Cartrette appealed from these judgments. This Court, in an unreported opinion, affirmed the grant of summary judgment but reversed the attorneys’ fee award, remanding the matter to the circuit court for it to “determine ... with greater clarity ... precisely when the bad faith [or lack of substantial justification] began.” *Cartrette v. Jeffers*, Case[] No. 2082 Sept Term[] 2014, 2015 WL 7225404 at *7 (quoting *Optic Graphics, Inc. v. Agee*, 87 Md. App. 770, 792 (1991)). Cartrette sought certiorari review by the Court of Appeals but was denied.

On remand, Cartrette did not limit herself to the scope of the remand, but argued, notwithstanding our opinion, that summary judgment had been improperly awarded to [R.A.] Brooklyn Park. She also argued that an award of attorneys' fees against her was not justified. Despite her objections, however, the circuit court declined to reconsider the summary judgment and entered two awards of attorneys' fees: (1) for the period of November 11, 2013 to July 31, 2014, in the amount of \$21,288.17; and (2) for the period from August 1, 2014 to July 31, 2016, in the amount of \$64,021.68.

Cartrette v. R-A Brooklyn Park, LLC, No. 1530, September Term 2016 (filed April 26, 2018), slip op. at 1-2 (footnote omitted). The court's award of \$21,288.17 was dated July 1, 2016, and the court's award of \$64,021.68 was dated September 14, 2016.

On October 3, 2016, Ms. Cartrette filed a notice of appeal. On October 12, 2016, R.A. Brooklyn Park notified the court that the "clerk's office ha[d] not entered the" award of \$64,021.68 "as a judgment." On October 13, 2016, the court issued an amended order in which it ordered "that said award be entered as a judgment for [R.A.] Brooklyn Park, LLC and against [Ms.] Cartrette," and "that the Clerk enter the Judgment in favor of [R.A.] Brooklyn Park, LLC against [Ms.] Cartrette, in the amount of \$64,021.68." On October 24, 2016, the clerk entered the judgment. On October 26, 2016, R.A. Brooklyn Park notified the court that it had discovered that the award of \$21,288.17 "did not result in a judgment for attorneys' fees as [the court] ordered on the record." On October 27, 2016, the court issued an amended order in which it ordered "that said award be entered as a judgment for [R.A.] Brooklyn Park, LLC and against [Ms.] Cartrette," and "that the Clerk enter the Judgment for [R.A.] Brooklyn Park, LLC in the amount of \$21,288.17." On November 9, 2016, the clerk entered the judgment. That same day, Ms. Cartrette filed an amended notice of appeal, in which she "note[d] an appeal of the[] amended final orders."

On April 26, 2018, this Court affirmed the judgment of the circuit court on two grounds. First, “the time for [Ms.] Cartrette to have argued her motion for summary judgment has long since passed,” and “[s]he may not argue it again.” Slip op. at 3. Second, the court had “a more than sufficient basis for an award of attorneys’ fees.” Slip op. at 5.

On December 20, 2018, Ms. Cartrette filed the motion to vacate, in which she contended that the court “had no jurisdiction to enter [the] amended orders, as the case was already on appeal,” and this Court “did not grant leave to the lower court to decide any [Rule] 2-535 motions during the pendency of the appeal.” On January 21, 2019, the court denied the motion. Ms. Cartrette subsequently filed a motion for reconsideration, which the court denied as well.

Ms. Cartrette contends that the court erred in denying the motion to vacate, because “after the appeal was noted on October 3, 2016,” the court lost “subject matter jurisdiction,” and hence, “the final amended orders are void.” We previously stated that, because “the clerk did not enter [the July 1 and September 14, 2016 orders as] judgments until October 24 and November 9, 2016,” the “judgments were not effective until those dates,” and hence, “Ms. Cartrette’s October 3, 2016 notice of appeal was premature.” This conclusion was incorrect, because to be considered a final judgment, an order must “clearly indicate to the parties or the public that the court had adjudicated fully the issues presented to it and had reached a final, unqualified decision.” *Lee v. Lee*, 466 Md. 601, 628 (2020) (internal citation, quotations, and brackets omitted). Here, the July 1 and September 14, 2016 orders were unqualified resolutions of R.A. Brooklyn Park’s requests for attorneys’ fees. Hence,

the orders were final and appealable, and Ms. Cartrette’s October 3, 2016 notice of appeal was not premature.

Nevertheless, we again reject Ms. Cartrette’s contention. Rule 2-648(a) states that “[w]hen a person fails to comply with a judgment mandating the payment of money, the court may also enter a money judgment to the extent of any amount due.” Here, there is no evidence in the record that at the time of R.A. Brooklyn Park’s notifications of October 12 and 26, 2016, Ms. Cartrette had complied with the July 1 and September 14, 2016 orders mandating payments of R.A. Brooklyn Park’s attorney’s fees. The notifications effectively constituted requests to reduce the awards of attorneys’ fees to money judgments pursuant to Rule 2-648(a). Because the court’s October 13 and 27, 2016 orders merely enforce the prior mandate to pay the attorneys’ fees, they are not, in substance, amended judgments. Although it would have been better for the circuit court to have entered separate orders reducing its awards of attorneys’ fees to money judgments, rather than amending its prior orders, the substance of the court’s actions did not require leave of this Court. Hence, the court did not err in denying the motion to vacate or subsequent motion for reconsideration.

**MOTION FOR RECONSIDERATION
GRANTED. OPINION OF JUNE 12, 2020
VACATED. JUDGMENTS OF THE
CIRCUIT COURT FOR ANNE ARUNDEL
COUNTY AFFIRMED. COSTS TO BE
PAID BY APPELLANT.**