Schonfeld v. Saucedo, Misapplication of Contract Doctrine to a Marital Agreement[1]

By Elliott Scheinberg

The Court of Appeals and every appellate court have long held that marital agreements are construed and interpreted in accordance with the ordinary principles of contract doctrine.[2] Closing in on a century and a half, the Court of Appeals, in *Galusha v. Galusha*,[3] upheld the applicability of contract law to marital agreements. Therein the plaintiff filed for divorce. The defendant, in his answer, asserted, *inter alia*, the defense of a separation agreement to the demand for alimony. The terms of the agreement required the husband to make specified payments to the wife, in addition to which he covenanted, on the part of himself, his heirs, executors, and personal representatives, to pay the wife $100 on the first day of each month. On appeal, the general term modified the judgment by reducing the annual amount of alimony. The issue before the Court of Appeals was whether the Supreme Court erred in disregarding the agreement.

The Court of Appeals modified the judgment of divorce because it was by "now [1889] *too well settled* . . . that after a separation has taken place a contract may be made . . . effective to bind the husband to contribute the sums therein provided for the future support of the wife . . . After its making, it was not in the power of either party, acting alone and against the will of the other, to do an act which would destroy or affect that contract."[4]

Notwithstanding the rich history of settled jurisprudence regarding the applicability of contract doctrine to marital agreements, grippingly inconsistent decisions occasionally invade the membrane of precedent authority and should thus not be followed. *Schonfeld v. Saucedo*[5] falls into that category.

Schonfeld v. Saucedo

Schonfeld is perplexingly illogical. First, not only did it turn a blind eye to public policy behind the statutory framework relating to child support and its corresponding decisional authority but it also denied the most foundational principle of contract construction and interpretation of an unambiguous agreement, adherence to the intent of the parties. Fundamentally, child support is a matter of important public policy[6] intended exclusively for the benefit of the child, not the benefit of a parent;[7] child support may not provide a windfall to a parent.[8]

Second, the Court of Appeals has underscored that contracts must be read "as a harmonious and integrated whole" to determine and give effect to its purpose and intent.[9] All parts of a contract must be read in harmony to determine its meaning.[10] The Court has also repeatedly ruled against any construction which would render a contractual provision meaningless or without force or effect.[11]

Third, a court should not interpret an agreement in a manner that produces an absurd result.[12] The First Department emphasized: "We are unaware of any rule of construction limiting the ability to harmonize two or more separate contraction clauses to instances where they explicitly crossreference each other" especially where the construction "would be untenable" and the result "absurd.""[13]

Fourth, public policy prohibits a party from profiting from its own wrongdoing.[14] The principle that a wrongdoer should not profit from his own misconduct is so strong in New York that we have said the defense applies even in difficult cases and should not be "weakened by exceptions."[15]

Schonfeld transgresses the union and congruity of these principles.

The parties in *Schonfeld* never married. The stipulation awarded sole legal and residential custody of the parties' only child to the father, subject to the mother's "access time." Paragraph 26 of the stipulation required the father to pay, "as and for his contribution to the expenses [the mother] incurs for the Child during her access times with the child," $15,000 per month until the child turns 21 years. That paragraph further provided that "[u]nder no circumstances" would the "payments . . . ever be less than $15,000 a month." The plain, logical understanding of this language is that the father's payments to the mother shall never drop below $15,000 when she visited with the child.

Following the mother's hospitalization "due to drug toxicity" and the removal of her other child by a child protective agency, Supreme Court suspended her access time. The father commenced an action for a judgment declaring that he is not required to pay $15,000 at any time when the mother's access time is suspended, terminated, or prohibited by a court. The mother counterclaimed that the father

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was required to pay her $15,000 a month regardless of her parenting access. Supreme Court ruled for the father.

Puzzlingly, the Appellate Division reversed because the stipulation did not contain any conditional terms or require that the payments bear any relationship to the actual expenses the mother incurs for access time—that while the paragraph provided for "earlier termination" of the payments if the mother dies, it did not specify suspension or termination of payments if the mother's access was judicially interrupted. The absence of a suspension or termination provision if the mother is judicially precluded from exercising her access time, would imply a term which the parties themselves failed to insert.

Significantly, since the parties had never married the mother had no entitlement to support for which reason the $15,000 could not have been construed as satisfaction of the father's legal obligation to pay spousal support. Moreover, any interruption of the mother's access time to the child could only be precipitated by her own wrongdoing from which wrongdoing she may not profit.

The dissent cogently underscored: "When interpreting a contract . . . the court should arrive at a construction that will give fair meaning to all of the language employed by the parties to reach a practical interpretation of the expressions of the parties so that their reasonable expectations will be realized"[16]—that the $15,000 payment provision must be read in the context of the stipulation as a whole "to assist [the mother] with the expenses she incurs for the Child during her access periods" and is not "simply a monthly payment for [the mother's] benefit."

Counsel should be extremely cautious before citing *Schonfeld* as precedent authority.

Endnotes

1. This segment derives from the upcoming fourth edition of Contract Doctrine and Marital Agreements in New York, E. Scheinberg, NYSBA, [2 vol., TBA, 2019].
2. *Graev v. Graev*, 11 N.Y.3d 262, 869 N.Y.S.2d 866 (2008); *Meccico v. Meccico*, 76 N.Y.2d 822, 559 N.Y.S.2d 974 (1990); *Gray v. Pashkow*, 79 NY2d 930, 582 N.Y.S.2d 985 (1992); *Rainbow v. Swisher*, 72 N.Y.2d 106, 531 N.Y.S.2d 775 (1988); *Schmelzel v. Schmelzel*, 287 N.Y. 21 (1941); *Schulman v. Miller*, 134 AD3d 616, 22 N.Y.S.3d 44 (1st Dep't 2015); *Anderson v. Anderson*, 120 A.D.3d 1559, 993 N.Y.S.2d 220 (4th Dep't 2014), lv. to appeal denied, 24 NY3d 913 (2015); *Momberger v. Momberger*, 97 A.D.3d 945, 948 N.Y.S.2d 713 (3d Dep't 2012); *Scalabrini v. Scalabrini*, 242 A.D.2d 725, 662 N.Y.S.2d 581 (2d Dep't 1997).
3. 116 NY 635 [1889].
4. *Id.* at 642-43.
5. 159 A.D.3d 756, 73 N.Y.S.3d 208 [2d Dep't 2018].
6. *Roe v. Doe*, 29 N.Y.2d 188, 324 N.Y.S.2d 71 (1971); *Burr v. Fellner*, 73 A.D.3d 1041, 900 N.Y.S.2d 656 (2d Dep't 2010); *Panossian v. Panossian*, 201 A.D.2d 983, 607 N.Y.S.2d 840 (4th Dep't 1994); *Thomas B. v. Lydia D.*, 69 A.D.3d 24, 886 N.Y.S.2d 22 (1st Dep't 2009) (A parent's duty to support a child to the age of 21 is a matter of fundamental public policy in this state and is currently embodied in statutory law.); *Schulman v. Miller*, 134 A.D.3d 616, 620, 22 N.Y.S.3d 44 [1st Dep't 2015].
7. *Shipman v. City of New York Support Collection Unit*, 183 Misc. 2d 478, 486, 703 N.Y.S.2d 389 [Sup Ct 2000] (This Court concludes that the child support payments collected by the support collection unit are funds for the exclusive benefit of the infant child. Although the custodial parent and/or the support collection unit receive the money, an ownership interest in the funds is not obtained by the custodial parent or the support collection unit. (*Sue Davidson, P.C., v. Naranjo*, 904 P.2d 354 (Wyo.1995); *Law Office of Tony Center v. Baker*, 185 Ga.App. 809, 366 S.E.2d 167).); *Piccarreto v. Mura*, 41 Misc. 3d 295, 970 N.Y.S.2d 408 [Sup. Ct. 2013].
8. *KellerGoldman v. Goldman*, 149 AD3d 422, 426, 52 N.Y.S.3d 17 [1st Dep't 2017], *aff'd*, 31 N.Y.3d 1123 [2018]; *Mayer v. Mayer*, 142 A.D.3d 691, 696, 37 N.Y.S.3d 145 [2d Dep't 2016], *lv to appeal dismissed*, 28 N.Y.3d 1100 [2016], and *lv to appeal denied*, 29 N.Y.3d 918 [2017]; *Mitchell v. Mitchell*, 264 A.D.2d 535, 540, 693 N.Y.S.2d 351 [3d Dep't 1999].
9. *Nomura Home Equity Loan, Inc., Series 2006FM2, by HSBC Bank USA, N.A. v. Nomura Credit & Capital, Inc.*, 30 NY3d 572, 581, 69 N.Y.S.3d 520 [2017].
10. *Bombay Realty Corp. v. Magna Carta, Inc.*, 100 N.Y.2d 124, 760 N.Y.S.2d 734 (2003); *KellerGoldman v. Goldman*, 149 A.D.3d 422, 426, 52 N.Y.S.3d 17 [1st Dept 2017], *aff'd*, 31 N.Y.3d 1123 [2018], citing *Gessin Elec. Contrs. Inc. v. 95 Wall Assoc.*, LLC, 74 A.D.3d 516, 518, 903 N.Y.S.2d 26 [1st Dep't 2010]; *150 Broadway N.Y. Associates, L.P. v. Bodner*, 14 A.D.3d 1, 784 N.Y.S.2d 63 (1st Dep't 2004).
11. *Beal Sav. Bank v. Sommer*, 8 N.Y.3d 318, 834 N.Y.S.2d 44 (2007); *Ronnen v. Ajax Elec. Motor Corp.*, 88 N.Y.2d 582, 648 N.Y.S.2d 422 (1996); *Two Guys From HarrisonN.Y., Inc. v. S.F.R. Realty Assocs.*, 63 N.Y.2d 396, 482 N.Y.S.2d 465 (1984).
12. *KellerGoldman v. Goldman*, 149 A.D.3d 422, 426, 52 N.Y.S.3d 17 [1st Dep't 2017], *aff'd*, 31 NY3d 1123 [2018].
13. *Id.*, at 426.
14. *Wolfe v. Hatch*, 95 A.D.3d 1394, 1396, 943 N.Y.S.2d 296 [3d Dep't 2012], *citing Manning v. Brown*, 91 N.Y.2d at 120, 667 N.Y.S.2d 336 [1997]; *Barker v. Kallash*, 63 NY2d 19, 31, 479 N.Y.S.2d 201 [1984] (It is Afundamental public policy that the courts of this State shall not honor claims founded on wrongdoing that is morally reprehensible, heinous, or gravely injurious to the public interests.@); *Rajic v. Faust*, 165 A.D.3d 716, 85 N.Y.S.3d 470 [2d Dep't 2018]; *Daesang Corp. v. NutraSweet Co.*, 167 A.D.3d 1, 85 N.Y.S.3d 6 [1st Dep't 2018]; *Wagner v. Derecktor*, 306 N.Y. 386, 391 [1954]; *Dampskibsselskabet Torm A/S v. P. L. Thomas Paper Co.*, 26 A.D.2d 347, 353, 274 N.Y.S.2d 601 [1st Dep't 1966].
15. *Kirschner v. KPMG LLP*, 15 N.Y.3d 446, 464, 912 N.Y.S.2d 508 [2010].
16. *See* Chapter 27, Contract Doctrine and Marital Agreements in New York, Reasonable Expectations, Reasonable Person, Practical Interpretations.