Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2017-010

MAY TERM, 2017

Fatu Kankolongo	}	APPEALED FROM:
	}	
	}	Superior Court, Chittenden Unit,
v.	}	Family Division
	}	
Fuad Ndibalema	}	DOCKET NO. 880-11-13 Cndm
		Trial Judge: Kirstin K. Schoonover

In the above-entitled cause, the Clerk will enter:

Husband appeals pro se from the trial court's order granting wife's motion to enforce in this post-divorce proceeding. We affirm.[*]

The parties divorced in January 2014 pursuant to a stipulated order. With respect to a home owned by the parties, the order provided that:

> [Husband] shall have the exclusive right to possession and ownership of the property, free and clear of [wife's] interest. A quit claim deed shall be prepared by [wife] and delivered to [husband] within 30 days of the issuance of this Order. [Husband] shall refinance as soon as possible, and within 1 year of the date of his execution of this Agreement. In the event that [husband] does not/cannot refinance within 1 year, the house shall be immediately placed on the market and sold. The first reasonable offer shall be accepted. . . .

The agreement was executed on December 14, 2013.

In August 2016, wife filed a verified motion to compel. She explained that husband had not complied with the provision above and asked the court to compel husband to either refinance the property or sell it. The court held a conference with the parties in November 2016. Husband indicated that he was trying to refinance the property and that he was approximately $10,000 behind on the mortgage payments. The court scheduled a status conference to discuss if husband had qualified for refinancing and if not, how to sell the house. Husband was to provide documentation of any refinancing by the date of the status conference. Husband provided no proof

[*] Shortly before oral argument, husband filed a motion "seeking an order sealing one or more documents contained in the court file" of this case. He does not identify any particular document that he seeks to seal, and we find no grounds in the governing public records rules to seal the record in this case. See Vermont Public Access to Court Records Rule 6(a) ("The public shall have access to all case records, in accordance with the provisions of this rule, except as provided in subsection (b) of this section."); see also Rule 6(b) (providing exceptions for various proceedings and records). The motion is denied.

that the property had been refinanced at the December 5th status conference. Instead, he submitted documents showing that he had applied for a mortgage assistance program.

In a written order, the court granted wife's motion to compel. It explained that pursuant to the final divorce order, husband was to refinance no later than December 14, 2014. He was now almost two years late. Even assuming that husband qualified for a mortgage assistance program, husband provided no proof that he was, in fact, able to refinance his loan to remove wife from the existing mortgage. Given that husband was already over $9000 in arrears on his mortgage, the court found it highly unlikely that he would qualify for refinancing. The court thus ordered husband to ready the house for sale so that it could be listed within thirty days. It directed wife to execute a quit claim deed within two days. The court scheduled the matter for a short hearing in thirty days to review the steps that husband had taken to list the home for sale. The court noted that if husband provided proof that he refinanced the property within thirty days, and that he had taken wife's name off the mortgage, the court would strike the review hearing. Husband appealed from this order.

At the outset, we consider wife's motion to dismiss this appeal. Wife argues that husband has no right to appeal the order at issue because there is no dispute over the terms of the divorce decree and there was no motion before the trial court to modify the divorce decree. Our case law is not so limited. We held in Iannarone v. Limoggio, 2011 VT 91, ¶ 18, 190 Vt. 272, that the court's ruling on a motion to enforce was a final appealable order for purposes of claim preclusion. We explained that "we have routinely allowed appeals from the disposition of post-judgment motions in family cases," and we found this practice "consistent with the law from other jurisdictions." Id. ¶ 17. We reach a similar conclusion here. The court's order made "a final disposition of the subject matter before the [c]ourt," id., and it was appealable.

We thus turn to the merits. Husband argues that the court should have assessed the "side effects" of its ruling. He appears to complain about the court's inquiries of wife and her attorney at the status conference. Finally, he asserts that the court erred in reaching its conclusion.

We find no error. The language in the stipulated divorce order is plain and unambiguous. Husband failed to comply with its terms. Thus, wife was entitled to relief on her motion to compel. None of husband's arguments persuade us to a contrary conclusion. The court was not obligated to consider the "side effects" of its ruling in deciding whether to enforce the parties' agreement. Because the agreement here is plain, it must be enforced as written. See Kim v. Kim, 173 Vt. 525, 525 (2001) (mem.) (explaining that unambiguous language is applied according to its terms). Finally, the court did not err in asking wife and her attorney for the status of the case at a hearing specifically held for this purpose. The court afforded husband the opportunity to present argument and information as well.

Affirmed.

BY THE COURT:

_____

Marilyn S. Skoglund, Associate Justice

_____

Harold E. Eaton, Jr., Associate Justice

_____

Karen R. Carroll, Associate Justice