

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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G/kmb

_____AD3d_____

Submitted - September 27, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
LEONARD B. AUSTIN
SANDRA L. SGROI, JJ.

2010-06255

DECISION & ORDER

Ionica Lazar, respondent, v Ovidiu Lazar, appellant.

(Index No. 25838/09)

Patrick Christopher, Howard Beach, N.Y., for appellant.

John A. Gemelli, Esq., P.C., Forest Hills, N.Y. (Emily C. Walsh of counsel), for respondent.

In an action for a divorce and ancillary relief, the defendant appeals from an order of the Supreme Court, Queens County (Lebowitz, J.), dated May 14, 2010, which denied his motion, inter alia, to stay the signing of the parties' judgment of divorce on the ground that the parties' written stipulation of settlement dated November 13, 2009, should be vacated or modified.

ORDERED that the order is affirmed, with costs.

The parties in this case entered into a comprehensive written stipulation of settlement (*see* CPLR 2104; *Nordgren v Nordgren*, 264 AD2d 828, 829). Where, as here, the stipulation is clear and unambiguous on its face, the intent of the parties must be gleaned from within the four corners of the instrument (*see Micciche v Micciche*, 62 AD3d 673). A stipulation which is fair on its face will be enforced according to its terms unless there is proof of fraud, duress, overreaching, or unconscionability (*see Rubin v Rubin*, 33 AD3d 983, 984).

Here, the defendant's conclusory and unsubstantiated assertions that the stipulation was the result of fraud, duress, overreaching, or unconscionability were inadequate to render the stipulation unenforceable (*id.* at 984). Moreover, the stipulation was not so manifestly unfair on its face as to be unconscionable, given the "meaningful benefits" received by the defendant (*Etzion v*

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Etzion, 62 AD3d 646, 654).

The defendant's remaining contentions are without merit.

Accordingly, the Supreme Court properly denied the defendant's motion, inter alia, to stay the signing of the parties' judgment of divorce on the ground that the stipulation should be vacated or modified.

RIVERA, J.P., FLORIO, AUSTIN and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court