SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3828-21

MICHAEL PORTNOY DBA
MID-ATLANTIC JUDGMENT
ENFORCEMENT,
(Judgment Assignee of Record),[1]

Plaintiff-Respondent,

v.

LORI S. MANNELLO and
MICHAEL MANNELLO,

Defendants-Appellants.

Submitted October 3, 2023 – Decided October 26, 2023

Before Judges Whipple and Paganelli.

On appeal from the Superior Court of New Jersey, Law Division, Morris County, Docket No. L-0067-02.

Lori S. Mannello and Michael Mannello, appellants pro se.

Respondent has not filed a brief.

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[1] Sharon Brust and Bruce Brust were the original plaintiffs and are assignors of the judgment entered against the defendants.

PER CURIAM

Defendants Lori and Michael Mannello (collectively the Mannellos) appeal from a July 5, 2022 order that revived a judgment entered against them. We conclude that the judge applied the right legal standards to the facts and affirm.

We recite the facts from the motion record. The original plaintiffs, Sharon and Bruce Brust (collectively the Brusts) obtained a judgment against the Mannellos on March 27, 2002.[2] The Brusts assigned the judgment to Michael Portnoy (Portnoy) d/b/a[3] Mid-Atlantic Judgment Enforcement (Portnoy d/b/a Mid-Atlantic). The assignment was filed on February 4, 2022. On February 28, 2022, Portnoy d/b/a Mid-Atlantic filed a "Substitution Of Attorney" (SoA) form which was executed by Portnoy d/b/a Mid-Atlantic and the Brust's former attorney in this matter. The form indicated "pro se [j]udgment [a]ssignee of [r]ecord . . . Portnoy d/b/a Mid-Atlantic . . . (sole proprietor) . . . will represent his own interests going forward." On March 4, 2022, Portnoy d/b/a Mid-Atlantic

[2] There is confusion in the record concerning the actual date the judgment was entered, either March 27, 2002 or April 29, 2002. For purposes of the revival motion the March 4, 2022 filing is timely considering either date.

[3] "d/b/a" is the abbreviation for "doing business as." Black's Law Dictionary 397 (6th ed. 1990).

filed a motion to revive the judgment. In support of the motion, the Brusts executed an "Acknowledgment of Assignment of Judgment" (Acknowledgment) and certified that the Mannellos had not paid any part of the judgment and no part of the "judgment was discharged in bankruptcy."

We are called to review N.J.S.A. 2A:14-5 and legal precedent. "Our standard of review of such matters of law is de novo." In re Ordinance 2354-12 of Tp. of West Orange, Essex County v. Township of West Orange, 223 N.J. 589, 596 (2015) (citing Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995) ("A trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference.")). However, we apply a deferential standard in reviewing factual findings by a judge. Balducci v. Cige, 240 N.J. 574, 594 (2020).

"The prescriptive period for the bringing of an action of a judgment is [twenty] years." Cumberland County Welfare Board v. Roberts, 139 N.J. Super. 126, 129 (Law Div. 1976) (citing N.J.S.A. 2A:14-5). "Such judgment may be revived for an additional period of [twenty] years provided a proper proceeding or action of law is brought within [twenty] years of its entry." Ibid.

In Kronstadt, we held:

> that the elements to be proven when a judgment is revived are: (1) the judgment is valid and subsisting;

> (2) it remains unpaid in full, or, if in part, the unpaid balance; and (3) there is no outstanding impediment to its judicial enforcement, e.g., a stay, a pending bankruptcy proceeding, an outstanding injunctive order, or the like. A judgment debtor may contest the revival proceeding on such bases.
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> [Kronstadt v. Kronstadt, 238 N.J. Super. 614, 618 (App. Div. 1990).]

Here, the judge made the requisite factual findings and correctly applied the law. The judge determined that the judgment should be revived because it was valid, unpaid, and there was no impediment to its enforcement. We agree.

The Mannellos do not contend that Portnoy d/b/a Mid-Atlantic failed to establish the Kronstadt elements to revive the judgment. Instead, their arguments are: (1) the judge erred in finding Portnoy d/b/a Mid-Atlantic operated as a sole proprietor and, absent that finding, Portnoy himself, could not legally represent Mid-Atlantic in court; (2) Portnoy engaged in the unauthorized practice of law — in Florida when he prepared the Acknowledgment for the Brusts, and in New Jersey when he filed the SoA form with the Brusts' former counsel in this matter; and (3) Portnoy d/b/a Mid-Atlantic is not registered or bonded as a collection agency, collection bureau, or collection office in this State. We conclude that these arguments are unavailing.

The judge found that Portnoy d/b/a Mid-Atlantic was a sole proprietor. "We may not overturn the trial court's fact[-]findings unless we conclude that those findings are 'manifestly unsupported' by the 'reasonably credible evidence' in the record." Balducci, 240 N.J. at 595, (citing Seidman v. Clifton Sav. Bank, S.L.A., 205 N.J. 150, 169 (2011)) (quoting In re Tr. Created By Agreement Dated Dec. 20, 1961, 194 N.J. 276, 284 (2008)).

The record reveals Portnoy's testimony that he does "business . . . as Mid-Atlantic . . . a sole proprietor using a fictitious name . . . approved by the Pennsylvania Secretary of State." Moreover, the SoA form filed with the court indicates "Portnoy d/b/a Mid-Atlantic . . . (sole proprietor)."

During the motion hearing, the Mannellos did not factually contest Portnoy d/b/a Mid-Atlantic's sole proprietor status. Instead, they stated they "don't know the rules of sole propriety, but [believed] they are supposed to be registered in New Jersey." On appeal, the Mannellos argue: "there [i]s no proof that Portnoy d/b/a Mid-Atlantic is a '[s]ole proprietorship'"; it "does not have the characteristics of a New Jersey [s]ole proprietorship"; and they "do not know anything about its formation apparently in Pennsylvania." However, the Mannellos fail to muster any evidence that Portnoy d/b/a Mid-Atlantic was not a sole proprietor.

The judge's finding, that Portnoy d/b/a Mid-Atlantic is a sole proprietorship, is not "manifestly unsupported" by the "reasonably credible evidence in the record," ibid., because the finding is supported by Portnoy's testimony and the SoA form. The judge's factual finding will not be disturbed.

It follows then, since the judge found Portnoy d/b/a Mid-Atlantic is a sole proprietor, there is no impediment to Portnoy appearing in court or filing papers. Rule 1:21-1(c) provides that a sole proprietor may "appear" or "file any paper in any action in any court of this State."

Moreover, there is no evidence that Portnoy illegally engaged in the practice of law in this matter. Our Court has recognized that "the practice of law does not lend itself 'to [a] precise and all-inclusive definition' . . . ." N.J. State Bar Ass'n v. Northern N.J. Mortg. Assoc., 32 N.J. 430, 437 (1960) (quoting Auerbacher v. Wood, 142 N.J. Eq. 484, 485 (E. & A. 1948)). "The practice of law is not . . . limited to the conduct of cases in court but is engaged in whenever and wherever legal knowledge, training, skill and ability are required." Stack v. P.G. Garage, Inc., 7 N.J. 118, 120-21 (1951). Defining the practice of law generally requires a case-by-case analysis because of the broad scope of the field of law. In re Op. No. 24 of Comm. on the Unauth. Practice of Law, 128 N.J. 114, 122 (1992).

The Mannellos' assertion that Portnoy illegally practiced law in Florida is not supported in the record. There is no evidence that Portnoy prepared the Acknowledgment or how Portnoy engaged with the Brusts regarding their assignment of the judgment or their execution of the Acknowledgment. Therefore, there can be no finding that Portnoy engaged in the practice of law in Florida in this matter.

Further, the record reveals that the Brusts were represented by an attorney when they obtained their judgment against the Mannellos. Thereafter, once the Brusts assigned their judgment to Portnoy d/b/a Mid-Atlantic, Portnoy and the attorney executed the SoA form to allow Portnoy "pro se" to "represent his own interests going forward." Therefore, there is no evidence that Portnoy engaged in the illegal practice of law in New Jersey in this matter.

Lastly, the Mannellos assert that Portnoy d/b/a Mid-Atlantic represented itself as a "debt collector." Therefore, the Mannellos argue Portnoy d/b/a Mid-Atlantic "as a collection agency, collection bureau or collection office in this State" is required to register and be bonded, (N.J.S.A. 45:18-1). The Mannellos also claim that Portnoy d/b/a Mid-Atlantic violates the public policy of New Jersey.

However, the Mannellos' argument implies that Portnoy d/b/a Mid-Atlantic's self-identification as a "debt-collector" or the Mannellos' identification of it as a "collection agency, collection bureau or collection office," precludes Portnoy d/b/a Mid-Atlantic's motion to revive the judgment. However, the issues are not intertwined. The judge explained that issues regarding collection — "garnish[ment]"; "attach[ment]"; and "levy" — were beyond the motion to revive. We agree. The motion went solely to the revival of the judgment and not to any issues regarding collection.

Affirmed.