

LEANNE G. STEFANILO

v.

NICHOLAS V. STEFANILO JR.

Submitted on Briefs June 27, 2012

Decided July 12, 2012

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Nicholas V. Stefanilo Jr. appeals from a judgment of the District Court (Portland, *Moskowitz, J.*) denying his M.R. Civ. P. 60(b) motion for relief from an amended divorce judgment that was entered (*Oram, M.*) and became final in 2008. The amended divorce judgment was entered by consent, incorporating the terms of a settlement agreement, to which Nicholas expressly agreed for the purpose of “resolving all outstanding issues between” the parties. The amended judgment included a provision that effected a financial arrangement relating to a parcel of real property by which Nicholas agreed to pay Leanne G. Stefanilo a certain amount.

Contrary to Nicholas’s contentions on appeal, the disposition of the property at issue and resulting financial arrangement as between the parties was properly before the court in 2008 by agreement of the parties. The matter was not outside of the court’s authority, there was no jurisdictional defect, and the 2008 amended divorce judgment is not void. *See generally Peterson v. Leonard*, 622 A.2d 87, 89 (Me. 1993); *Wilson v. Wilson*, 140 Me. 250, 36 A.2d 774 (1944).

Accordingly, the District Court did not err in denying Nicholas's motion for relief pursuant to M.R. Civ. P. 60(b)(4), nor did the court otherwise abuse its discretion in denying Nicholas's motion for relief from judgment, filed more than three years after entry of the amended divorce judgment. *See Zink v. Zink*, 687 A.2d 229, 231-32 (Me. 1996) (finding no abuse of discretion in denial of Rule 60(b) motion when no evidence supported the assertion that the motion, which was not brought for four years, was brought within a "reasonable time"); *see also McKeen & Assocs. v. Dep't of Transp.*, 1997 ME 73, ¶ 4, 692 A.2d 924 ("Rule 60(b) presupposes that a party has performed his duty to take legal steps to protect his own interests *in the original litigation.*" (emphasis in original)).

The entry is:

Judgment affirmed.

On the briefs:

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Nicholas V. Stefanilo Jr.

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appellee Leanne G. Stefanilo