

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA01-1034

NORTH CAROLINA COURT OF APPEALS

Filed: 4 June 2002

REBA W. NORRIS,
Plaintiff

v.

Duplin County
No. 97-CVD-1073

ARNOLD W. NORRIS,
Defendant

Appeal by defendant from judgment entered 14 May 2001 by Judge Leonard W. Thagard in Duplin County District Court. Heard in the Court of Appeals 15 May 2002.

Thompson & Mikitka, P.C., by Susan Collins Mikitka, for plaintiff-appellee.

Mako & Robinson, P.A., by Bruce H. Robinson, Jr., for defendant-appellant.

HUNTER, Judge.

Arnold W. Norris ("defendant") appeals the entry of an equitable distribution judgment. Defendant married Reba W. Norris ("plaintiff") on 19 May 1990. The parties separated on 10 September 1996, and on 30 October 1997, plaintiff instituted this action seeking an absolute divorce and equitable distribution of the parties' property. On 29 December 1997 the trial court entered an order of absolute divorce, and on 14 May 2001, the trial court entered an equitable distribution judgment from which defendant now appeals.

Defendant argues on appeal that the trial court's findings of fact with respect to two vehicles owned by the parties during their marriage are not supported by the evidence. The trial court found that during the marriage, the parties acquired a 1993 Ford Explorer for \$19,500.00. The Explorer was purchased with \$7,500.00 of plaintiff's separate funds, and the remainder of the purchase price was financed. On the date of separation, a debt of \$5,500.00 remained on the vehicle, which plaintiff paid in full following the separation. The trial court distributed the Explorer to plaintiff. The trial court also found that the parties acquired a 1991 Dodge Dakota for \$9,064.00. A down payment was made using defendant's separate property, and the remaining \$7,800.00 of the purchase price was financed. On the date of separation, the outstanding balance was \$5,574.63, most of which was paid by defendant after separation. The Dakota was ultimately distributed to defendant.

Defendant argues that the trial court's finding of fact with respect to the Ford Explorer is unsupported by the evidence because the trial court failed to give defendant a credit for payments made on that vehicle "during the marriage." By defendant's own testimony, however, payments made on the Explorer during the marriage were made with marital funds. There is no evidence showing that defendant made payments on the Explorer during the marriage with his separate property. Therefore, defendant is not entitled to a credit for such payments, and that percentage of the value of the vehicle obtained through marital funds was properly subject to equitable distribution.

Defendant also argues that the trial court erred in its finding of fact with respect to the Dodge Dakota because the trial court failed to give defendant a credit for payments he made on the vehicle after the parties' separation. However, this Court has recently held that where the property is distributed to the spouse who made post-separation payments on the property, there is no entitlement to either a credit or consideration as a distributional factor. See *Walter v. Walter*, __ N.C. App. __, __, 561 S.E.2d 571, 577 (2002). Although the trial court, in its discretion, may weigh the equities of a particular case and conclude that consideration for such payments is warranted, the trial court is not required to do so. *Id.* Here, defendant was awarded the Dakota, and we discern no abuse of discretion in the trial court's failure to award defendant a credit for his post-separation payments on that vehicle.

We also overrule defendant's argument that the trial court erred in relying on plaintiff's testimony to classify her IRA account as separate property, given that defendant presented evidence that the IRA was funded with marital money. "The credibility of the evidence in an equitable distribution trial is for the trial court." *Grasty v. Grasty*, 125 N.C. App. 736, 739, 482 S.E.2d 752, 754, *disc. review denied*, 346 N.C. 278, 487 S.E.2d 545 (1997). Moreover, the fact that the trial court did not make a specific finding that it believed plaintiff's evidence over defendant's evidence is not grounds for sustaining defendant's argument where the court's finding that the IRA was separate

property implicitly resolved the conflict in evidence in favor of plaintiff, and there was competent evidence to support this conclusion. See *Walter*, __ N.C. App. at __, 561 S.E.2d at 576.

Affirmed.

Judges WYNN and THOMAS concur.

Report per Rule 30(e).