

Affirmed and Opinion Filed October 31, 2023



**In the
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-22-01118-CV

**RODERICK MANGUM, Appellant
V.
SITONIA MANGUM, Appellee**

**On Appeal from the 302nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF-20-18124**

MEMORANDUM OPINION

Before Justices Carlyle, Smith, and Kennedy
Opinion by Justice Carlyle

The parties (Roderick and Sitonia Mangum) were married then sought a divorce. After a bench trial concerning the division of the marital estate, the court signed a final decree of divorce on July 20, 2022 and awarded sixty percent of their home to appellee Sitonia and forty percent to appellant Roderick. In three issues, Roderick timely challenges (1) the absence of findings of fact and conclusions of law, (2) the trial court's ruling denying him the opportunity to testify, and (3) the trial court's disproportionate award to Sitonia. We affirm in this memorandum opinion. *See* TEX. R. APP. P. 47.4.

In his first issue, Roderick challenges the trial court's failure to file findings of fact and conclusions of law despite his timely request and a subsequent notice of late findings of fact. Although his original request was timely filed, the notice of late findings was filed more than 30 days later and did not preserve this issue for appellate review. *See* TEX. R. CIV. P. 296–297; *Las Vegas Pecan & Cattle Co., Inc. v. Zavala County*, 682 S.W.2d 254, 255–56 (Tex. 1984); *In re Guthrie*, 45 S.W.3d 719, 722 (Tex. App.—Dallas 2001, pet. denied). We overrule Roderick's first issue.

In his second issue, Roderick challenges the trial court's ruling that denied him the opportunity to testify. However, Roderick was not present in the courtroom (or even the county) at the time of trial and his counsel did not object to the court's ruling; instead, his counsel offered Roderick's testimony via telephone to rebut Sitonia's allegations of cruelty. The absence of an objection to the trial court's ruling means Roderick has failed to preserve this issue for appellate review. *See* TEX. R. APP. P. 33.1(a)(1); *Garcia v. Semler*, 663 S.W.3d 270, 278 (Tex. App.—Dallas 2022, no pet.). We overrule Roderick's second issue.

In his third issue, Roderick challenges the trial court's apportionment of the marital property. When there are no findings of fact despite a timely request, we presume that a trial court made all the findings necessary to support its judgment. *See Ad Villarai, LLC v. Chan Il Pak*, 519 S.W.3d 132, 135 (Tex. 2017) (citing *BMC Software Belg., N.V. v. Marchand*, 83 S.W.3d 789, 794 (Tex. 2002)). A party may rebut this presumption by demonstrating that the record evidence does not support a

presumed finding. *Id.* As the party complaining of the division of community property, Roderick bore the burden of “showing from the evidence in the record that the trial court’s division of the community estate was so unjust and unfair as to constitute an abuse of discretion.” *Slicker v. Slicker*, 464 S.W.3d 850, 858 (Tex. App.—Dallas 2015, no pet.) (citing *In re Marriage of C.A.S. & D.P.S.*, 405 S.W.3d 373, 382–83 (Tex. App.—Dallas 2013, no pet.)).

Roderick’s appellate brief on this point only contains two citations to the record; the first shows Sitonia requested a disproportionate share of the marital estate and the second shows the parties stipulated Sitonia’s credit was so poor she could not qualify for a mortgage on the home. When viewed separately or collectively, this sparse evidence is insufficient to overcome the presumption that the trial court properly exercised its discretion when dividing the marital assets. *See Murff v. Murff*, 615 S.W.2d 696, 699 (Tex. 1981). We overrule his third issue.

We affirm the trial court’s judgment.

221118f.p05

/Cory L. Carlyle/

CORY L. CARLYLE
JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

RODERICK MANGUM, Appellant

No. 05-22-01118-CV V.

SITONIA MANGUM, Appellee

On Appeal from the 302nd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. DF-20-18124.
Opinion delivered by Justice Carlyle.
Justices Smith and Kennedy
participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellee SITONIA MANGUM recover her costs of this appeal from appellant RODERICK MANGUM.

Judgment entered this 31st day of October 2023.