

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA08-1446

LORRIE ANN MCNEIL (MARSHALL),
APPELLANT

V.

DONALD KEITH MCNEIL,
APPELLEE

Opinion Delivered JUNE 24, 2009

APPEAL FROM THE MARION
COUNTY CIRCUIT COURT,
[NO. DR-2002-192-4]

HONORABLE GORDON WEBB,
JUDGE,

REVERSED AND REMANDED

KAREN R. BAKER, Judge

This is a second appeal arising from a Yell County divorce decree. In an unpublished decision of the first appeal, this court found that the trial court erred in making an unequal distribution of the marital home and surrounding land without findings that would support such an award. *McNeil v. McNeil*, CA04-1138, slip op. at 3 (Ark. App. Nov. 2, 2005). We reversed and remanded the case on this issue with instructions for the trial court to enter an order of distribution in accordance with Arkansas Code Annotated § 9-12-315. On remand, the trial court awarded appellant Lorrie Ann McNeil one-half of the value of the materials used to build the house and ordered her to quitclaim her interest in the house and twenty acres to appellee Donald Keith McNeil. Appellant asserts that the trial court erred in not ordering the marital property sold pursuant to Arkansas Code Annotated § 9-12-

315(a)(3)(B). We agree. The case is reversed and remanded with instructions to order the property sold at auction and to distribute the proceeds of the sale equally between the two parties.

Arkansas Code Annotated § 9-12-315(a)(3)(B) provides as follows:

(B) When it appears from the evidence in the case to the satisfaction of the court that the real estate is not susceptible of the division as provided for in this section without great prejudice to the parties interested, the court shall order a sale of the real estate. The sale shall be made by a commissioner to be appointed by the court for that purpose at public auction to the highest bidder upon the terms and conditions and at the time and place fixed by the court. The proceeds of every such sale, after deducting the cost and expenses of the sale, including the fee allowed the commissioner by the court for his or her services, shall be paid into the court and by the court divided among the parties in proportion to their respective rights in the premises.

Ark. Code Ann. § 9-12-315 (a)(3)(B) (Repl. 2008).

The only relief that appellant seeks is the sale of the property and equal distribution of the proceeds. The trial court clearly erred in only distributing one-half of the building costs without regard to the actual value of the house and with no valuation of the twenty acres of land upon which the house was situated. Accordingly, the case is reversed and remanded with instructions to order the property sold at auction and the proceeds of the sale distributed equally between the two parties.

KINARD and HENRY, JJ., agree.