

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA08-52

CHRISTOPHER WAYNE ROBERTS,
APPELLANT

V.

ROBIN YANYAN YANG
(FORMERLY ROBERTS),
APPELLEE

Opinion Delivered 19 NOVEMBER 2008

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
[NO. DR-2005-5518]

THE HONORABLE MACKIE M.
PIERCE, JUDGE

REBRIEFING ORDERED

D.P. MARSHALL JR., Judge

This appeal by Christopher Roberts is the sequel to *Roberts v. Yang*, 102 Ark. App. 384, ___ S.W.3d ____ (2008). Roberts's petition to the supreme court for review of our decision in *Yang I* remains pending. In this appeal, Roberts challenges the circuit court's division and valuation of the parties' marital assets. It is a one-brief case.

We cannot reach the merits because Roberts's brief is deficient. He has not abstracted all the key parts of the hearings at which the circuit court took evidence about the value of the parties' assets. His addendum does not contain the divorce decree; further, it contains at least one document that is missing a page. Roberts also failed to include "Plaintiff's Exhibit 5," on which the circuit court based its order dividing and valuing the parties' property. Without all the essential record materials,

we are unable to conduct a meaningful review of the issue on appeal. *Campbell v. State*, 349 Ark. 111, 112, 76 S.W.3d 271, 272 (2002). So the case must be rebriefed.

During the rebriefing, the parties should also address whether the law-of-the-case doctrine bars our consideration of Roberts's argument on appeal. This doctrine prevents consideration of an argument that could have been raised in the first appeal but is not made until a later appeal. *Turner v. Northwest Arkansas Neurosurgery Clinic, P.A.*, 91 Ark. App. 290, 298–99, 210 S.W.3d 126, 133–34 (2005). The doctrine only applies, however, where the facts on the second appeal are substantially the same as those involved in the prior appeal. *Ibid.* at 299, 210 S.W.3d at 134. The record in the first appeal is part of the record for this case. Ark. Sup. Ct. R. 3-1(e). The circuit court appears to have addressed the property-division issue in the divorce decree, from which Roberts appealed in *Yang I*. He did not assert any division/valuation errors in the first appeal. We therefore ask both parties to address whether the law-of-the-case doctrine has any application in this second appeal.

We order rebriefing. Roberts shall file a brief complying with our Rule 4-2 within thirty days of this opinion. Yang's appellee brief, and Roberts's reply brief, shall be due thereafter as prescribed in Rule 4-4(b) and (c). If Roberts does not file a conforming brief, then we may affirm based on his current inadequate brief. Ark. Sup. Ct. R. 4-2(b)(3).

BIRD and BAKER, JJ., agree.