

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA11-333

LAURA RUTH CASTO (now TEAGUE)
APPELLANT

V.

WILLIAM MITCH CASTO
APPELLEE

Opinion Delivered November 9, 2011

APPEAL FROM THE POPE COUNTY
CIRCUIT COURT,
[NO. DR2009-41]HONORABLE GORDON W.
“MACK” McCAIN, JR., JUDGE

REVERSED

RAYMOND R. ABRAMSON, Judge

Laura Ruth Casto (now Teague) and William Mitch Casto were divorced on May 7, 2009. Before their divorce, they operated a chicken farm under the name Casto Farms, but never incorporated or established the farm as a separate entity.

On December 28, 2007, Laura Casto entered into a broiler-production agreement with Pilgrim's Pride. The checks from Pilgrim's Pride under this agreement were issued to "Laura Casto DBA Casto Farms."

In 2008, Pilgrim's Pride was forced to idle its Clinton, Arkansas, facility for economic reasons and terminated its broiler-production agreement with Casto. Laura Casto thereafter entered into a release and settlement agreement with Pilgrim's Pride whereby Pilgrim's Pride paid her an initial sum of \$10,000 and further agreed to pay rental assistance to her if she was unable to re-rent the chicken houses. The initial \$10,000 check from Pilgrim's Pride was

issued on October 10, 2008, to “Laura Casto DBA Casto Farms.” Casto Farms was thereafter unable to contract with another company. However, due to Pilgrim Pride’s filing for bankruptcy, the rental-assistance checks were not issued prior to the divorce.

A divorce decree was entered on May 7, 2009. The decree, which contained a general reservation clause,¹ incorporated a property-settlement agreement executed by the parties. The property-settlement agreement awarded the land on which the farm was located to William Casto. In exchange, William Casto agreed to assume all debt related to the property and pay Laura Casto \$15,000 for her remaining interest in the property. The property-settlement agreement did not specifically address the payments from Pilgrim’s Pride, nor did it address the division of any of the farm equipment.

On April 12, 2010, after the divorce decree was entered, Pilgrim’s Pride issued a check in the amount of \$28,225.57 to “Laura Ruth Casto DBA Casto Farms” for the obligations it owed under its settlement agreement. The check was mailed to the farm and was received by William Casto.

On June 3, 2010, William Casto moved to have Laura Casto held in contempt for failure to abide by the property-settlement agreement, in that she would not endorse the check over to him. Laura Casto responded with a motion to dismiss alleging that, as the only individual named on the broiler-production and settlement agreements with Pilgrim’s Pride, she was entitled to the full amount of the funds. She further argued that, because the

¹The divorce decree stated that “[t]his court retains jurisdiction of this case for such further orders as may be proper for the enforcement of this decree.”

property-settlement agreement was silent with respect to the money owed by Pilgrim's Pride and, because more than 90 days had passed since the decree had been entered, the circuit court did not have jurisdiction to modify the agreement.

After hearing the arguments of counsel, the trial court held that it had jurisdiction to resolve the claims, finding that the inquiry did not require it to modify the parties' agreement, but rather to interpret the meaning of the agreement.² The court then determined that Casto Farms, while not an incorporated entity, was a farming operation and consisted of all the things associated with a farming operation. The court found that, although Laura Casto's name was the only one on the contracts, she had entered into the contracts as the agent for Casto Farms. The court stated that the parties knew what Casto Farms was and what it included and that the parties, by their property-settlement agreement, intended that Casto Farms, in its entirety, be conveyed to William Casto. In an order filed December 10, 2010, the trial court formally denied William Casto's motion for contempt but awarded the full amount of the payment to him. Laura Casto filed a timely appeal from the court's order.

On appeal, Laura Casto argues that the trial court lacked the requisite jurisdiction to modify the property-settlement agreement, or, in the alternative, if the trial court had jurisdiction, it erroneously found that William Casto was entitled to the full amount of the disputed funds.

Laura Casto first argues that, because the property-settlement agreement was silent as

²The trial court denied Laura Casto's motion to dismiss on jurisdictional grounds on September 24, 2010. She then sought a writ of prohibition and/or certiorari in the Arkansas Supreme Court, which was denied without prejudice on October 22, 2010.

to the division of the Pilgrim's Pride payment, the trial court did not "interpret" the agreement, but rather modified it, and that it lacked jurisdiction to do so.

We have held that a trial court does not have jurisdiction to modify a property-settlement agreement that purports to be a complete and final settlement of all marital property and that is incorporated into a divorce decree, if the modification is sought more than ninety days after the divorce decree was entered and does not otherwise comply with Rule 60 of the Arkansas Rules of Civil Procedure or fall within the general reservation of jurisdiction provision in the decree. *Linn v. Miller*, 99 Ark. App. 407, 261 S.W.3d 471 (2007); *Jones v. Jones*, 26 Ark. App. 1, 759 S.W.2d 42 (1988); *Harrison v. Bradford*, 9 Ark. App. 156, 655 S.W.2d 466 (1983). However, a trial court retains the power to clarify or interpret a prior decree for more than ninety days in order to more accurately reflect the court's original intention. *Ford v. Ford*, 30 Ark. App. 147, 783 S.W.2d 879 (1990). When the divorce decree is ambiguous, the trial court has jurisdiction to make changes that clarify what the court originally intended. *Abbott v. Abbott*, 79 Ark. App. 413, 90 S.W.3d 10 (2002).

In the present case, the trial court determined that it was vested with jurisdiction to interpret and enforce its decree, which was entered pursuant to the parties' property-settlement agreement. This determination, however, was in error. Here, the property-settlement agreement was silent as to the division of the Pilgrim's Pride payments. Although the trial court indicated that it was merely interpreting whether the payments were included in the conveyance of the "farm," the word "farm" was never mentioned in the property-settlement agreement. Instead, the property-settlement agreement merely identified the real

property upon which the farming operation was located and conveyed that property to William Casto. There is no mention of the Pilgrim's Pride payments anywhere in the agreement. In fact, the parties testified at the hearing that the payments were either simply forgotten or overlooked, and the trial court even indicated that the parties had not contemplated the Pilgrim's Pride payments when the property-settlement agreement was executed.

As a result, we find that the trial court did not merely clarify or interpret the decree. See *Abbott v. Abbott, supra; Ford, supra* (recognizing that a trial court retains the power to clarify or interpret a prior decree for more than ninety days in order to more accurately reflect the court's original intention). Rather, the court supplemented the prior decree by deciding issues that were not previously before it and upon which the parties had never agreed. As a result, the trial court actually modified the agreement, which it lacked the jurisdiction to do under Rule 60.

Nor does the general reservation of jurisdiction, which is included in the parties' divorce decree, give the trial court jurisdiction, because the parties never contemplated the Pilgrim's Pride payments at the time of the divorce. Generally, the parties to a divorce action may enter into an independent agreement to settle property rights which, if approved by the court and incorporated into the decree, may not be subsequently modified. *Carver v. Carver*, 93 Ark. App. 129, 217 S.W.3d 185 (2005). Nonetheless, a general reservation of jurisdiction will permit modification of a decree after ninety days only with respect to issues that were before the trial court in the original action. *Id.* The terms of the agreement and the intention

of the parties determine whether a property settlement covers all property owned by the parties. *Id.* Here, the court specifically stated that the parties had not contemplated the Pilgrim's Pride payments when they executed the property-settlement agreement. As those payments were not before the court at the time the decree was entered, the general-reservation clause could not and did not confer jurisdiction upon the court.

Because we have found that the trial court did not have jurisdiction over the matter, we do not decide the issue of ownership of the payments in question.

Reversed.

PITTMAN and HOOFFMAN, JJ., agree.