

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CAMELLA KLEIN, ¹	§
	§ No. 377, 2010
Petitioner Below-	§
Appellant,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware
	§ in and for New Castle County
ANDREW KLEIN,	§ File No. CN09-01665
	§ Petition Nos. 10-11939
Respondent Below-	§ 10-14206
Appellee.	§

Submitted: November 12, 2010

Decided: December 16, 2010

Before **HOLLAND, BERGER** and **RIDGELY**, Justices

ORDER

This 16th day of December 2010, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The petitioner-appellant, Camella Klein (“Wife”), filed an appeal from the Family Court’s June 7, 2010 order finding her in contempt of the Family Court’s August 26, 2009 property division order by failing to complete the sale of the marital home and further finding that the respondent-appellee, Andrew Klein (“Husband”), was not in contempt for failing to pay alimony, sign an amended Qualified Domestic Relations Order

¹ The Court *sua sponte* assigned pseudonyms to the parties by Order dated June 23, 2010. Supr. Ct. R. 7(d).

(“QDRO”), take Wife’s name off the title to the marital car, and permit Wife to enter the marital home to retrieve her personal property. We find no merit to the appeal. Accordingly, we affirm.

(2) The transcript of the June 7, 2010 contempt hearing before the Family Court reflects the following on the issue of Wife’s contempt petition. First, while some alimony payments to Wife had been late, all alimony payments owed by Husband were current at the time of the hearing. Second, the QDRO had not been signed by Husband because he had not received the final version of the document from Wife’s attorney. The document was signed by Husband at the hearing. Third, Husband produced a copy of the title to the car at the hearing showing that Wife’s name had been removed. Finally, Husband testified that Wife had moved out of the house on August 2, 2009 and had taken her personal property with her at that time. He stated that he had attempted to bring some additional items to her, but she had refused them.

(3) On the issue of Husband’s contempt petition, the hearing transcript reflects the following. The property division order of the Family Court required that the marital home be listed for sale and that the parties cooperate in completing the sale. The property was listed for sale with a real estate company and a sales contract was signed by two prospective buyers

on March 14, 2010 for a sales price close to the reported value of the home as of the time of the property division hearing. Settlement on the property was scheduled for April 29, 2010. The settlement sheet reflected that Wife would receive 65% of the proceeds and Husband would receive 35% of the proceeds, in accordance with the Family Court's property division order. However, Wife refused to sign the deed to complete the settlement and, thereafter, the prospective buyers asked for the return of their deposit. Wife's explanation was that the contract was invalid because the buyers refused to waive certain repairs by a certain date. However, the settlement sheet did not reflect any set-off for any such repairs, only the usual commissions and transfer taxes.

(4) The Family Court entered a finding of contempt against Wife for her failure to complete the settlement. The Family Court also ordered that all title and interest of Wife in the marital home be conveyed to Husband through a deed to be signed by Wife. The Family Court further ordered that, if Wife continued to refuse to sign the deed, the Clerk of the Family Court would be appointed to sign the deed on her behalf. Husband was ordered to re-list the property for sale following the signing of the deed. The Family Court, finally, ordered that Husband would receive an additional \$1,000.00 for his efforts in listing the property for sale a second time, all

court costs incurred in filing his contempt petition, as well as the cost of preparing a new deed.

(5) In this appeal, Wife claims that the Family Court erred and abused its discretion in granting Husband’s contempt petition and in denying hers.

(6) Rule 70(a) of the Family Court Civil Procedure Rules provides that, “[i]f a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply . . . , the [Family] Court may direct the act to be done at the cost of the disobedient party by the Clerk of [the Family] Court . . . and the act when so done has like effect as if done by the party. . . . The Court may also in proper cases adjudge the party in contempt. . . .”

(7) This Court’s standard of review of a decision of the Family Court extends to a review of the facts and the law, as well as to inferences and deductions made by the trial judge.² We have the duty to review the sufficiency of the evidence and test the propriety of the findings.³ Findings of fact will not be overturned on appeal unless they are found to be clearly erroneous.⁴

² *Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983).

³ *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

⁴ *Mundy v. Devon*, 906 A.2d 750, 752 (Del. 2006).

(8) We have carefully reviewed the record in this case, including the contempt hearing transcript, and conclude that the Family Court neither erred nor abused its discretion when it denied Wife's contempt petition and granted Husband's. There was ample support in the record for the Family Court's finding of contempt on the part of Wife and its award of costs to Husband. As such, the Family Court's judgment must be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice