

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ANTHONY JAMES BALLATO,)
)
 Appellant,)
)
 v.)
)
 ROBIN JO PINNIX-BALLATO,)
)
 Appellee.)
 _____)

Case No. 2D01-5747

Opinion filed October 4, 2002.

Appeal from the Circuit Court for Pinellas
County; Ray E. Ulmer, Jr., Judge.

Virginia R. Vetter of Vetter & Hunter,
Tampa (withdrew after briefing); Karol K.
Williams of Karol K. Williams, P.A., Tampa
(substituted as counsel of record), for
Appellant.

Carl T. Boake and Kathy H. Czepiel of
Wallace, Finck, Boake & Collclough, St.
Petersburg, for Appellee.

STRINGER, Judge.

Anthony James Ballato (the Husband) seeks review of the final judgment of dissolution of his marriage to Robin Jo Pinnix-Ballato (the Wife). The Husband raises two challenges to the final judgment: (1) that the trial court erred in awarding the Wife \$10,000 lump sum alimony and (2) that the trial court erred in finding that the parties'

home was a marital asset. Because the Wife waived her claim for alimony at the final hearing, we reverse the award of lump sum alimony. We affirm the trial court's finding that the parties' home was a marital asset without comment.

Although the Wife's petition for dissolution contained a request for lump sum alimony, the Wife expressly waived any claim for alimony at the beginning of the final hearing. Regardless, the trial court awarded the Wife \$10,000 lump sum alimony for support that was separate from the equitable distribution scheme. Because neither party presented evidence or argument regarding alimony at the hearing, the trial court erred in awarding alimony. Hu v. Hu, 432 So. 2d 1389 (Fla. 2d DCA 1983); Herring v. Herring, 666 So. 2d 927 (Fla. 1st DCA 1995). We therefore reverse the trial court's lump sum alimony award but otherwise affirm the final judgment of dissolution of marriage.

Reversed in part, affirmed in part, and remanded.

ALTENBERND and WHATLEY, JJ., Concur.