IN THE

Indiana Supreme Court

Supreme Court Case No. 21S-DC-568

Elizabeth Roetter,
Appellant (Plaintiff below)

–v–

Michael P. Roetter, Jr.,
Appellee (Defendant below).

Argued: February 3, 2022 | Decided: March 10, 2022

Appeal from the Hendricks Circuit Court,
No. 32C01-1911-DC-673
The Honorable Daniel F. Zielinski, Judge

On Petition to Transfer from the Indiana Court of Appeals,
No. 20A-DC-2150

Opinion by Justice Goff

Chief Justice Rush and Justices David, Massa, and Slaughter concur.

Goff, Justice.

The division of marital property in Indiana involves a two-step process. The trial court must first identify the property to include in the marital estate, and then must distribute that property under the rebuttable presumption that an equal division between the parties is "just and reasonable." But how much discretion does a trial court have in deviating from this process? Today, we hold that, so long as it expressly considers all marital property, and so long as it offers sufficient justification to rebut the presumptive equal division, a trial court need not follow a rigid, technical formula in dividing the marital estate and we will assume it applied the law correctly.

Because the trial court here substantially complied with the requisite process, we find no abuse of discretion. We also find no error in the trial court's award of spousal maintenance. We therefore affirm the trial court on both issues.

Facts and Procedural History

Elizabeth Roetter (Wife) and Michael Roetter (Husband) married in May 2014 with no prenuptial agreement. Husband's premarital assets included an individual retirement account (IRA) valued at just over $82,000; a 401K account valued at $383,000; and two life-insurance policies of nominal value. Wife entered the marriage with over $100,000 in student-loan debt for an incomplete college education. The marriage produced two children—Mason (born 2014) and Oscar (born 2017), both pseudonyms—for whom Wife, per the couple's agreement, quit her job and devoted herself as full-time caregiver. Mason suffers from autism and requires several types of therapy. Husband worked outside the home during the marriage and earned an annual salary of over $100,000.

Wife petitioned for divorce in October 2019. The parties agreed on custody arrangements, parenting time, and child support. But they quarreled over spousal maintenance and distribution of the marital estate. Wife sought $100 in weekly spousal maintenance for three years due to the level of care required by Mason, along with fifty-five percent of the

marital estate, half of the full value of the two retirement accounts, and for Husband to assume half of her student-loan debt. Husband objected to Wife's spousal-maintenance request (disputing the level of care required for Mason) and requested the full value of both retirement accounts, save for fifty percent of the 401K's increase in value during the marriage.

In its final decree, the trial court granted Wife's request for spousal maintenance but ordered Husband to pay her $100 per week for only eighteen months rather than three years. Appellee's App. Vol. II, p. 23. And in "lieu of additional 'monthly maintenance' payments," the court ordered Wife to "retain the $12,000 advance" she had received toward her "anticipated share" of the marital assets. *Id.*

In dividing the marital estate, the court first considered the parties' "total gross assets and liabilities" at the time Wife filed for divorce. *Id.* at 21. The net value of these gross assets and liabilities—which included the IRA, 401K, life-insurance policies, and Wife's student-loan debt, among other things—totaled $956,899 ($1,231,720 in assets less $274,821 in debt). Citing the parties' "short-term marriage," the trial court then set aside to Wife the full amount of her student-loan debt and to Husband the two life-insurance policies along with the premarital value of the IRA and 401K. *Id.* After setting off these assets and liabilities, the trial court calculated the value of the "remaining divisible marital pot" at $573,839. *Id.* at 21–22. From this pot, the trial court awarded to Wife fifty-five percent of the "net marital estate" (totaling $322,499)—an appropriate departure from the presumptive equal division, the court reasoned, given the "disparity" of the parties' "income and earning abilities." *Id.* at 22.

The Court of Appeals affirmed in part and reversed in part. *Roetter v. Roetter*, 174 N.E.3d 1144 (Ind. Ct. App. 2021). The panel first held that, given the $12,000 advance Wife had received, the trial court properly exercised its discretion in ordering Husband to pay spousal maintenance for only eighteen months. *Id.* at 1148–49. The panel then held that the trial court abused its discretion in dividing the marital estate. *Id.* at 1152. The trial court's "individualized allocations" of the retirement accounts to Husband and student-loan debt to Wife essentially resulted in a seventy-five/twenty-five split, the panel opined, creating a "gross disparity" that

"skewed" in Husband's favor. *Id.* at 1150. Finding the trial court's analysis deficient, the panel then pointed to "other statutory factors" that weighed "significantly" in Wife's favor—namely, her role as primary caregiver to the children which improved Husband's ability to acquire and retain property, saved the couple from incurring outside childcare expenses, and adversely impacted Wife's economic circumstances. *Id.* at 1151 (citing Ind. Code §§ 31-15-7-5(1), -5(3), -5(5)). The panel remanded with instructions for the trial court to fashion a remedy "closer to the fifty-five, forty-five split" requested by Wife. *Id.*

Husband petitioned for transfer, which we granted, vacating the Court of Appeals opinion. *See* Ind. Appellate Rule 58(A).

Standard of Review

An abuse-of-discretion standard of review applies to a trial court's maintenance award and division of marital assets. *Luttrell v. Luttrell*, 994 N.E.2d 298, 304–05 (Ind. Ct. App. 2013); *Smith v. Smith*, 136 N.E.3d 275, 281 (Ind. Ct. App. 2019). A trial court abuses its discretion if its decision stands clearly against the logic and effect of the facts or reasonable inferences, if it misinterprets the law, or if it overlooks evidence of applicable statutory factors. *Mitchell v. Mitchell*, 875 N.E.2d 320, 323 (Ind. Ct. App. 2007). When, like here, the trial court enters findings of fact and conclusions of law, an appellate court may set aside the trial court's judgment only when "clearly erroneous." *Dunson v. Dunson*, 769 N.E.2d 1120, 1123 (Ind. 2002). The party challenging the "trial court's division of marital property must overcome a strong presumption that the court considered and complied with the applicable statute." *Wanner v. Hutchcroft*, 888 N.E.2d 260, 263 (Ind. Ct. App. 2008). The same strong presumption applies to a trial court's maintenance award. *Luttrell*, 994 N.E.2d at 305.

Discussion and Decision

On transfer, Husband and Wife dispute the same two issues litigated below: (I) spousal maintenance and (II) distribution of the marital estate. We address each issue in turn.

I. We find no error in the trial court's award of spousal maintenance.

By statute, a maintenance award serves one of three purposes: to assist an incapacitated spouse, to assist a custodial spouse under certain circumstances, or to assist a spouse in need of educational or vocational rehabilitation. *Eads v. Eads*, 114 N.E.3d 868, 878 (Ind. Ct. App. 2018) (noting the "three, quite limited options" for which spousal-maintenance awards are available in Indiana) (internal quotation marks omitted). *See* I.C. §§ 31-15-7-2(1)–(3). Wife challenges the trial court's eighteen-month award of rehabilitative maintenance. She contends that the court should have awarded her maintenance for the full three-year period permitted by statute so she can "provide a stable home and environment for herself as well as the children." Appellant's Br. at 15, 16 (citing I.C. § 31-15-7-2(3)).

A trial court may award rehabilitative maintenance in an amount the court deems appropriate and for a period not to exceed three years from the date of final decree. I.C. § 31-15-7-2(3). Before ordering such an award, the court must consider several factors: (A) each spouse's education level during the marriage and when divorce proceedings commence; (B) whether the spouse seeking maintenance assumed homemaking or childcare responsibilities during the marriage at the expense of his or her education, training, or employment; (C) each spouse's earning capacity; and (D) the time and expense necessary for the spouse seeking maintenance to acquire sufficient education or training for employment. I.C. §§ 31-15-7-2(3)(A)–(D).

The trial court here ordered Husband to pay Wife $100 per week for a period of eighteen months (or seventy-eight weeks), totaling $7,800. And in "lieu of additional 'monthly maintenance' payments," the court further ordered Wife to "retain the $12,000 advance previously set aside to her." Appellee's App. Vol. II, p. 23. In settling on this award, the trial court cited several "relevant" statutory factors. *Id.* These factors included Wife's role as the children's primary caregiver, the interruption in employment she incurred as a result, and Husband's "substantially" greater earnings and earning capability. *Id. See* I.C. §§ 31-15-7-2(3)(B), (C). The trial court also considered evidence related to the parties' education levels and the time

and expense necessary for Wife to find employment. Tr. Vol. II, pp. 36, 51, 57, 74. *See* I.C. §§ 31-15-7-2(3)(A), (D).

Despite these findings, Wife insists that Mason's **ongoing** special needs render it nearly impossible for her to secure employment, and that the financial resources necessary to accommodate those needs justify her maintenance request. Appellant's Br. at 15–16. While sympathetic to Wife's argument, we affirm the trial court's judgment on this issue. To be sure, the facts Wife relies on may be relevant to an analysis of a trial court's award of **custodial** maintenance. *See* I.C. § 31-15-7-2(2) (permitting maintenance for the parent of a child whose physical or mental impairment requires the parent to forgo employment). But Wife challenges only the trial court's award of **rehabilitative** maintenance, which aims to remedy a spouse's earning capacity following an interruption in education and employment "during the marriage." I.C. § 31-15-7-2(3). What's more, Wife offered no evidence—and raises no arguments—on whether her future employment requires any education or training, let alone the time and expense necessary for that education or training. *Cf.* I.C. § 31-15-7-2(3)(D).

Finally, it's worth noting that Wife's total maintenance award of $19,800 ($7,800 in monthly payments plus the $12,000 advance) **exceeded** the amount she requested ($15,600) by $4,200. While acknowledging this, Wife insists that the $12,000 was part of the property settlement rather than the maintenance award. OA at 11:50–12:07. But while the parties may originally have intended the $12,000 as an advance on her "anticipated share of the division of marital assets," as the trial court noted, nothing in the dissolution decree shows that amount as part of the estate's final distribution. *See* Appellee's App. Vol. II, pp. 22–23.

For these reasons, we find no abuse of discretion in the trial court's award of spousal maintenance.

II. We find no error in the trial court's division of marital property.

Husband argues that the Court of Appeals ignored the standard of review by substituting its judgment for that of the trial court. Pet. to Trans. at 8. He acknowledges that "a trial court cannot, based solely on one factor, [e]ffect 'an unequal distribution of the marital estate absent consideration of other factors necessary for the conclusion that such a distribution would be just and reasonable.'" *Id.* at 10 (quoting *Eye v. Eye*, 849 N.E.2d 698, 705 (Ind. Ct. App. 2006)). He argues, however, that the trial court **did**, in fact, consider the relevant statutory factors—including "the premarital nature of certain assets and debts" and "the earning abilities of the parties." *Id.* at 10–11.

Wife insists otherwise. Emphasizing her lack of education, limited earning capacity, and childcare responsibilities, she specifically faults the trial court for failing to adequately consider her financial standing. Appellant's Br. at 18–19. These factors, she insists, demand "more assets" than the trial court awarded her. *Id.* at 19. Wife also argues that the trial court erred by excluding Husband's premarital assets from the estate, emphasizing "that all marital property goes into the marital pot for division," regardless of when or how it was acquired. Resp. to Trans. at 6; Appellant's Br. at 16.

A. The trial court properly considered all relevant factors under the Division-of-Property Statute.

The division of marital property in Indiana involves a two-step process. First, the trial court must identify the property to include in the marital estate. *O'Connell v. O'Connell*, 889 N.E.2d 1, 10 (Ind. Ct. App. 2008). This consists of both assets and liabilities, *Miller v. Miller*, 763 N.E.2d 1009, 1012 (Ind. Ct. App. 2002), and encompasses "all marital property," whether acquired by a spouse before the marriage or during the marriage or procured by the parties jointly, *Eads*, 114 N.E.3d at 873.

Once the court identifies the marital estate, it must then distribute the property in a "just and reasonable" manner. *O'Connell*, 889 N.E.2d at 10–

11 (citing I.C. § 31-15-7-5). Indiana Code section 31-15-7-5 (the Division-of-Property Statute) calls for a presumptive equal division between the parties. A party, however, may rebut this presumption with "relevant evidence" showing "that an equal division would not be just and reasonable." This evidence may include

- each spouse's contribution to the property's acquisition, regardless of whether the contribution produced any income;
- the extent to which a spouse acquired property, either before the marriage or through inheritance or gift;
- each spouse's economic circumstances at the time of divorce;
- the parties' conduct during the marriage, as it related to the disposal or dissipation of assets; and
- the parties' respective earnings or earning ability.

I.C. §§ 31-15-7-5(1)–(5).

This statutory list is nonexclusive, *see* I.C. § 31-15-7-5, and no single factor controls the division of property, *McBride v. McBride*, 427 N.E.2d 1148, 1151 (Ind. Ct. App. 1981). The trial court may, for example, consider the length of the parties' marriage in dividing the marital pot. *Webb v. Schleutker*, 891 N.E.2d 1144, 1154 n.6 (Ind. Ct. App. 2008). A short-lived marriage may rebut the presumption favoring equal division, especially if one party brought substantially more property into the marriage. *Houchens v. Boschert*, 758 N.E.2d 585, 591 (Ind. Ct. App. 2001). Still, "when ordering an unequal division" of marital assets, the trial court must consider **all** relevant factors under the Division-of-Property Statute. *Wallace v. Wallace*, 714 N.E.2d 774, 780 (Ind. Ct. App. 1999). Otherwise, the "trial court runs the risk of dividing a marital estate in an unreasonable manner." *Id.*

In *Wallace*, a "significant portion of the marital estate consist[ed] of business interests" that "were gifted to or inherited by" the husband. *Id.* at 775. The trial court set these assets aside to the husband, resulting in an eighty-six/fourteen split in his favor. *Id.* at 779. The Court of Appeals reversed, holding that, "[w]hile the nature and source of the marital assets

derived from [the husband's] family" may offer partial justification for deviating from the presumptive equal division, the trial court's failure to consider other relevant statutory factors failed to support a disparity "of the magnitude that resulted [t]here." *Id.* at 781.

While we agree in principle with the holding in *Wallace*, we find that precedent inapposite to this case. In dividing the martial estate, the trial court here expressly found that the marriage was short-term, that Wife acted as the children's primary caregiver during the marriage, that she "brought very few assets to the marriage," that she failed to advise Husband of the student-loan debt she incurred prior to the marriage, that Husband "received no benefit" from Wife's education, and that Wife "is capable of earning income" of up to "$30,000." Appellee's App. Vol. II, pp. 20, 23. The trial court also cited the "disparity of the part[ies'] income and earning abilities" to justify its division of property. *Id.* at 22.

These findings either correspond with the relevant factors under our Division-of-Property Statute or find support in our case law. *See* I.C. § 31-15-7-5(1) (contribution of each spouse to the property's acquisition), I.C. § 31-15-7-5(3) (spouse's economic circumstances at the time of divorce), I.C. § 31-15-7-5(5) (earnings or earning ability of the parties). *See Boschert*, 758 N.E.2d at 591 (short-lived marriage may rebut the presumption of equal division).

To be sure, as the Court of Appeals observed, certain facts may have supported a distribution more favorable to the Wife. *See Roetter*, 174 N.E.3d at 1151 (reciting factors that weighed "significantly" in Wife's favor). But, at the end of the day, the standard of review precludes us from substituting our judgement for that of the trial court. *See Fobar v. Vonderahe*, 771 N.E.2d 57, 59 (Ind. 2002) (emphasizing that, rather than reweighing the evidence, an appellate court only considers the evidence "most favorable" to the trial court's judgment).

B. So long as it considers all assets and debts, and so long as it offers sufficient findings to rebut the presumptive equal division, the trial court need not apply a technical formula in dividing the marital estate.

Finally, we address Wife's argument that the trial court erred by excluding Husband's premarital assets from the estate. Husband notes the "inartful" and "somewhat confusing" language of the trial court's dissolution decree. OA at 20:16, 21:19–20. But nothing in that decree, he insists, "clearly excluded assets from the marital pot." *Id.* at 21:21–26. And to the extent the trial court departed from the proper statutory procedure in dividing the estate, Husband submits, any error was harmless, and a simple remand for a clarified order would suffice as a remedy. Pet. to Trans. at 9; OA at 20:35–45.

Husband directs our attention to two Court of Appeals cases that we find helpful to our analysis. In the first of these cases, *Lulay v. Lulay*, the trial court specifically "exclude[d] the [husband's] pensions from the marital pot." 591 N.E.2d 154, 155 (Ind. Ct. App. 1992). This exclusion, the Court of Appeals held, was erroneous but ultimately harmless. *Id.* "The trial court should have included the pensions in the marital pot" to begin with, the panel explained, "and then, in its discretion" under the Division-of-Property Statute "it could have awarded the pension interests" to the husband. *Id.* at 156. But despite the procedural misstep, the panel concluded, the trial court entered the necessary findings and "explained satisfactorily" the reasons for its award. *Id.*

Similarly, in *Capehart v. Capehart*, the trial court "refused to consider" the husband's premarital student-loan debt "as part of the marital estate," insisting that husband was "solely responsible" for its payment. 705 N.E.2d 533, 536 (Ind. Ct. App. 1999). The Court of Appeals held that, while improperly excluding that debt from the marital pot, the trial court's error was harmless because its findings—that the husband had incurred the debt for his benefit prior to the marriage and that the wife had "made no contribution towards its acquisition"—rebutted the presumptive equal division of property. *Id.* at 537. The panel remanded only for the trial court to amend the divorce decree to show that the student debt was in fact part

of the marital pot and that an unequal division of the property was just and reasonable. *Id.*

Here, we're faced with somewhat different circumstances. Unlike in *Lulay* and *Capehart*, the trial court expressly considered **all** property in the marital estate—the "total gross assets and liabilities," as the court categorized it—which included the retirement accounts, life-insurance policies, and student-loan debt. Appellee's App. Vol. II, p. 21. The court then set aside to Husband the life-insurance policies and the premarital value of the IRA and 401K **before** calculating the value of the "remaining divisible marital pot" and awarding Wife her share of the "net marital estate." *Id.* at 21–22.

The better approach, we believe, would have been for the trial court to include all assets and liabilities in the divisible marital pot, rather than setting aside those assets and liabilities at issue before dividing the estate. Such an approach offers greater transparency to the parties, potentially averting further litigation. But, in the end, a trial court's judgment is "tested by its substance rather than by its form." *Shafer v. Shafer*, 219 Ind. 97, 104, 37 N.E.2d 69, 72 (1941) (internal quotation marks omitted). So long as it expressly considers all assets and liabilities, and so long as it offers sufficient findings to rebut the presumptive equal division, a trial court need not follow a rigid, technical formula in dividing the marital estate and we will assume that it applied the law correctly. *See Luttrell*, 994 N.E.2d at 305. That's precisely what happened here.

Conclusion

For the reasons above, we hold that the trial court did not abuse its discretion in its award of spousal maintenance or in its division of property.

Affirmed.

Rush, C.J., and David, Massa, and Slaughter, JJ., concur.

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