

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2007-CA-000463-MR  
AND  
NO. 2007-CA-000698-MR

IVA LEE SEABOLT, (NOW REYNOLDS)

APPELLANT

v. APPEALS FROM BELL CIRCUIT COURT  
HONORABLE JAMES L. BOWLING, JR., JUDGE  
ACTION NO. 06-CI-00182

VERNON SEABOLT

APPELLEE

OPINION  
AFFIRMING

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BEFORE: ACREE AND STUMBO, JUDGES; GRAVES,<sup>1</sup> SENIOR JUDGE.

ACREE, JUDGE: Iva Lee Seabolt (now Reynolds) appeals from a judgment of the Bell Circuit Court entered on February 2, 2007, dissolving her marriage to Vernon Seabolt. She argues that the trial court erred in awarding Vernon her pre-marital mobile home. She also contends the trial court erred in failing to

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<sup>1</sup> Senior Judge J. William Graves sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statute (KRS) 21.580.

specifically address the division of several marital investment accounts. Finding no error, we affirm.

Iva Lee and Vernon were married on March 7, 1992, and separated on February 3, 2006. Iva Lee is 68 years old and Vernon is 76. Both parties are retired. Iva Lee has income of approximately \$1,800.00 per month from retirement and Social Security benefits. Vernon receives \$873.00 per month from Social Security and approximately \$200.00 per month working at his daughter's electrical meter business.

In its final judgment, the trial court awarded Iva Lee her pre-marital property including a house and real estate in Michigan and unimproved real estate in Tazewell, Tennessee, her savings account, and other personal items. Vernon was awarded his pre-marital property including his residence located on U.S. 119 near Pineville in Bell County, Kentucky, his savings account, and items of personalty.

Iva Lee also came into the marriage with a 1985 mobile home which was moved onto Vernon's Bell County property during their marriage. Iva Lee and Vernon expended \$19,000.00 of marital funds in renovations on the mobile home consisting of new cabinets, appliances, flooring, doors, windows, two room additions, and a covered front porch. The trial court found the mobile home to be valued at \$2,500.00 before the improvements and \$7,500.00 after them. Although

Vernon made no claim to the mobile home, the trial court awarded it and all improvements to him.

Following the entry of the trial court's judgment, Iva Lee moved to alter, amend or vacate the order. The trial court granted Iva Lee's request to restore her maiden name and denied all other requests. This appeal followed.<sup>2</sup>

In reviewing issues in an action for dissolution of marriage, we must defer to the considerable discretion of the trial court unless it has committed clear error or has abused that discretion. *Herron v. Herron*, 573 S.W.2d 342, 344 (Ky. 1978). An appellate court "cannot disturb the findings of a trial court in a case involving dissolution of marriage unless those findings are clearly erroneous." *Cochran v. Cochran*, 746 S.W.2d 568, 569-70 (Ky.App. 1988).

On appeal, Iva Lee's first claim of error concerns the court's treatment of her pre-marital mobile home. KRS 403.190 controls the disposition of property in a dissolution of marriage action. The statute provides a three-step process for dividing property:

(1) the trial court first characterizes each item of property as marital or nonmarital; (2) the trial court then assigns each party's nonmarital property to that party; and (3) finally, the trial court equitably divides the marital property between the parties.

*Travis v. Travis*, 59 S.W.3d 904, 909 (Ky. 2001) (footnotes omitted).

*Travis* also directs that a court must treat appreciated value as marital property subject to equitable division:

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<sup>2</sup> Iva Lee appealed both the divorce decree and the denial of her motion to alter, amend or vacate the decree. The appeals have been consolidated for our review.

When the property acquired during the marriage includes an increase in the value of an asset containing both marital and nonmarital components, trial courts must determine from the evidence why the increase in value occurred because where the value of [non-marital] property increases after marriage due to general economic conditions, such increase is not marital property, but the opposite is true when the increase in value is a result of the joint efforts of the parties. KRS 304.190(3), however, creates a presumption that any such increase in value is marital property, and, therefore, a party asserting that he or she should receive appreciation upon a nonmarital contribution as his or her nonmarital property carries the burden of proving the portion of the increase in value attributable to the nonmarital contribution. By virtue of the KRS 403.190(3) presumption, the failure to do so will result in the increase being characterized as marital property.

*Id.* at 910-911 (citations and quotation marks omitted.).

Vernon testified at the dissolution hearing that the value of the mobile home before improvements was \$2,500.00. During discovery he also submitted \$19,000.00 in cancelled checks from marital funds expended toward the renovation of Iva Lee's mobile home. The improvements included two additions in which rooms were built and added on to the mobile home, affixing it to Vernon's property. Iva Lee offered no evidence to contradict Vernon's assessment or prove the improvements on the home should be categorized as nonmarital. The trial court determined that due to marital expenditures, the value of the mobile home tripled and awarded the home to Vernon.

We also note that the trial court found the parties had jointly contributed to the improvement of Iva Lee's Michigan property which was

awarded to her without an offset in Vernon's favor for his share of that property's improvement. The award of the mobile home was clearly within the trial court's broad discretion, and we find no abuse of that discretion. *Cochran, supra*.

Iva Lee additionally takes issue with the trial court's treatment of several investment accounts held by Vernon including two IRAs and a life insurance annuity. Vernon testified that these were nonmarital accounts started before the marriage and with his own monies. Iva Lee did not testify concerning the accounts. The trial court awarded these accounts to Vernon as part of his personal pre-marital property. Based on our thorough review of the record including the videotaped final hearing, we find the trial court's decision to be supported by substantial evidence. Therefore, we find no abuse of discretion.

For the foregoing reasons, the order of the Bell Circuit Court is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT:

James Dean Liebman  
Frankfort, Kentucky

BRIEF FOR APPELLEE:

Gerald L. Greene  
Pineville, Kentucky