STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1990

In re the Marriage of: Scott Douglas Wiggins, petitioner,
Respondent,

vs.

Marjarie Marie Renteria Wiggins,
Appellant.

Filed October 15, 2018
Affirmed
Hooten, Judge

Washington County District Court
File No. 82-FA-15-4850

Scott Wiggins, Woodbury, Minnesota (pro se respondent)

Brandon M. Schwartz, Michael D. Schwartz, Schwartz Law Firm, Oakdale, Minnesota (for appellant)

Considered and decided by Halbrooks, Presiding Judge; Bjorkman, Judge; and Hooten, Judge.

U N P U B L I S H E D O P I N I O N

HOOTEN, Judge

Appellant challenges the district court's ruling that the stipulated judgment and decree (the Decree) is silent on how gains and losses from the parties' retirement accounts are to be divided. Appellant argues that the district court's decision violated the parties' agreement, altered the parties' substantive rights, and resulted in an unjust and inequitable

division of marital property because the parties agreed that gains and losses on any amount awarded to the parties from the accounts would be each parties' non-marital property. We affirm.

FACTS

The parties married in December 1999, and respondent-husband filed a petition to dissolve the marriage on October 12, 2015. A court trial was scheduled for October 25, 2016, and on the morning of trial, the parties came to a stipulated agreement on all issues and made a record of that agreement with the district court. Relevant to this appeal, the parties agreed that "their pretax retirement assets, which includes VOYA Financial account, a Minnesota State Retirement Account, a deferred comp account, a Fidelity IRA account, and an Equity Trust IRA account will be equalized" and that "[t]he two largest accounts will need to be divided pursuant to a Qualified Domestic Relations Order." They also agreed that respondent "has a Health Savings Account, and that account will also be equally divided between the parties." There was no discussion of gains and losses from those accounts on the record. At issue in this appeal is the VOYA account, the Minnesota State Retirement Account, and the Health Savings Account.

After the parties negotiated the terms of the Decree and signed it, the district court signed the Decree on December 16, and judgment was entered on December 19. In the Decree, the parties agreed to a valuation date of September 30, 2015, and listed the balances of each of the three retirement accounts at issue in this appeal. The Decree further states:

> 11. Property Division. The parties' marital property shall be divided as set forth in the spreadsheet attached hereto as Appendix C as soon as reasonably possible. . . . "Marital

> personal property" means personal property acquired by the parties prior to September 30, 2015, and does not include "non-marital property" as defined by Minnesota Statute 518.003.
>
> The division of retirement accounts as provided in Appendix C shall be effected by means of a Qualified Domestic Relations Order, which shall be prepared by attorney [D.B.] and each party shall pay one-half of [D.B.]'s fee. The parties shall contact [D.B.] and pay their one-half share of his fee within thirty (30) days of entry of this Judgment and Decree.

Appendix C lists the relevant property division as follows: Voya Financial, title is in respondent's name, value of $101,923, $39,067 awarded to respondent, $62,856 awarded to appellant, divide by Qualified Domestic Relations Order (QDRO); MN State Retirement, title is in respondent's name, value of $117,153, $58,576.50 awarded to respondent, $58,577.50 awarded to appellant, divide by QDRO; Health Care Savings, title is in respondent's name, value of $38,717, $19,358.50 awarded to respondent, $19,358.50 awarded to appellant, transfer from respondent to appellant.

There was significant communication between the parties' attorneys related to drafting the QDROs. When appellant's attorney received the draft of the QDROs, she disagreed that appellant should not receive gains or losses from the accounts. The parties continued to discuss the issue of gains and losses, and appellant's attorney scheduled a hearing with the district court to address the issues she had with the QDROs. On July 7, 2017, respondent filed a motion for, among other issues that are not part of this appeal, an order requiring appellant to execute the QDROs that were drafted by D.B. The district court issued an order concluding "that the Judgment and Decree is silent on capital gains and losses regarding the QDROs. Accordingly, the QDROs as [D.B.] drafted each shall

be signed by the parties without further delay." Appellant now appeals this part of the district court's order.

D E C I S I O N

"Except in cases of fraud or mistake, property divisions are final and not subject to modification." *Graff v. Graff*, 472 N.W.2d 882, 883 (Minn. App. 1991), *review denied* (Minn. Sept. 13, 1991). But, a district court "may issue orders to implement, enforce, or clarify the provisions of a decree, so long as it does not change the parties' substantive rights." *Nelson v. Nelson*, 806 N.W.2d 870, 871 (Minn. App. 2011) (quotation omitted). "An order implementing or enforcing a dissolution decree does not affect the parties' substantive rights when it does not increase or decrease the original division of marital property." *Id.* District courts can "consider terms implied in the judgment, as well as those actually expressed." *Thompson v. Thompson*, 385 N.W.2d 20, 22 (Minn. App. 1986). "Whether a provision in a dissolution judgment and decree is clear or ambiguous is a legal question" which we review de novo. *Suleski v. Rupe*, 855 N.W.2d 330, 339 (Minn. App. 2014). If a provision in a judgment and decree is ambiguous, the district court's determination of its meaning is a fact question which we review for clear error. *Id.* And if the same judge enters the judgment and decree and then later determines its meaning, that judge's "reading of the provision is entitled to great weight." *Id.* (quotation omitted).

We hold that the Decree is not ambiguous. The Decree is silent on the issue of gains and losses from the three accounts at dispute in this case. Neither the word gain, the word loss, nor any similar language appears anywhere in the Decree in relation to the accounts at issue. But this particular silence does not make the Decree ambiguous because, when

read in its entirety, its meaning is clear. The Decree states: the value of the accounts on the valuation date; that marital property shall be divided as set forth in an attached spreadsheet; that QDRO's drafted by D.B. shall be used to divide the retirement accounts; that title to all three accounts is in respondent's name; and the amount from each account awarded to each party. The fact that the three accounts are in respondent's name and that the Decree awards appellant a specific dollar amount of each of these accounts, as opposed to a percentage of the total balance or an amount plus or minus gains and losses, makes the Decree's meaning unambiguous. We hold that it is clear from the Decree that each party bears the risk of losses and will reap the reward of gains on accounts titled in their name or on property they were awarded title to by the Decree.

But even if we were to hold that the Decree was ambiguous, the outcome would not change. Appellant argues that the part of the Decree which states that "'[m]arital personal property' means personal property acquired by the parties prior to September 30, 2015, and does not include 'non-marital property' as defined by Minnesota Statute 518.003," should be read to mean that the parties agreed that the gains and losses on the respective accounts was each party's non-marital property. But even if we were to agree with appellant's argument and hold that the gains and losses from each account is non-marital property, the Decree is still silent on the issue of whose non-marital property the gains and losses are. So, for the same reasons that we held that the Decree is not ambiguous, we would be compelled to determine that the gains and losses are respondent's non-marital property. Accordingly, even if the Decree were ambiguous, we would hold that the district court did

not clearly err in its determination of the meaning of the Decree, especially in light of the "great weight" that we accord to its reading of the Decree.

Moreover, while in isolation this portion of the property division may appear unequal, it is not. The fairness of a global settlement cannot be evaluated by looking solely at individual pieces of the settlement. *See Carlson v. Carlson*, 390 N.W.2d 780, 784 (Minn. App. 1986) (noting that the fairness of a property division depends on many factors), *review denied* (Minn. Aug. 20, 1986). One party may benefit more in one aspect of the settlement, while the other benefits more in another aspect of the settlement. Here, respondent argues that he accepted a smaller portion of the equity in their marital home because he knew there would be market gains on his retirement accounts from the valuation date until the date judgment was entered. And by virtue of being awarded the marital home, appellant was able to benefit from the increase in value of the home in addition to receiving a more favorable portion of the equity in the home.

We hold that, in light of the fact that the three accounts were in respondent's name and the Decree awarded appellant a specific dollar amount from each account, the Decree was not ambiguous.

Affirmed.