STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0307

In re the Marriage of: Robert H. Brandtjen, petitioner,
Appellant,

vs.

Terese M. Weitzel,
Respondent.

Filed December 13, 2021
Affirmed
Klaphake, Judge[*]

Ramsey County District Court
File No. 62-F2-98-001309

Daniel M. Fiskum, Minnetonka Family Law, P.A., Minnetonka, Minnesota (for appellant)

Michael P. Boulette, O. Joseph Balthazor Jr., Taft Stettinius & Hollister LLP, Minneapolis, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Larkin, Judge; and Klaphake, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

On appeal from the district court's denial of his motion to reopen the judgment and decree dissolving the parties' marriage, appellant Robert H. Brandtjen argues that the district court erred when it ruled that his motion to reopen the judgment pursuant to Minn. Stat. § 518.145, subd. 2 (2020) was untimely. We affirm.

DECISION

Dissolution judgments and decrees are final when entered. *Thompson v. Thompson*, 739 N.W.2d 424, 428 (Minn. App. 2007). Property rights under a final judgment may not be modified except under circumstances that would justify reopening it. Minn. Stat. § 518.145, subd. 2; *Shirk v. Shirk*, 561 N.W.2d 519, 522 (Minn. 1997). A judgment may be reopened if "it is no longer equitable that the judgment and decree or order should have prospective application." Minn. Stat. § 518.145, subd. 2(5). A district court "may issue appropriate orders implementing or enforcing the provisions of a dissolution decree" and "clarify and construe a divorce judgment so long as it does not change the parties' substantive rights." *Potter v. Potter*, 471 N.W.2d 113, 114 (Minn. App. 1991).

The district court's decision about whether to reopen a judgment will be upheld absent an abuse of discretion, and the underlying findings will not be set aside unless they are clearly erroneous. *Hestekin v. Hestekin*, 587 N.W.2d 308, 310 (Minn. App. 1998).

Brandtjen and respondent Terese M. Weitzel married in 1990 and divorced in March 1999. Under the terms of the dissolution, they were awarded their homestead as tenants in common. Brandtjen was awarded possession of the homestead until their child A.B. turned

19-years old, graduated from high school, or became deceased—whichever occurred first. Pursuant to the homestead-sale provision, after the triggering event occurred, they were obligated to sell the homestead and equally divide the net proceeds of the sale. Brandtjen and Weitzel reconciled and moved back into the homestead. However, they did not remarry or move to modify the terms of the dissolution judgment.

A.B. turned 19 on August 5, 2010, triggering the homestead-sale provision of the judgment, however, the homestead was never put on the market. In January 2011, Weitzel signed and executed a quitclaim deed allegedly conveying her interest in the homestead to Brandtjen.[1] In 2014, the parties ended their relationship and Weitzel moved out of the homestead.

In August 2015, Weitzel petitioned the district court to enforce the homestead-sale provision. This began Brandtjen's and Weitzel's extensive litigation surrounding the homestead-sale provision. The district court granted Weitzel's motion and ordered Brandtjen to list the homestead for sale within 180 days. He did not do so, and in 2016, the district court again ordered Brandtjen to put the homestead up for sale, which he again failed to do.

In 2017, Weitzel petitioned the district court to invalidate the 2011 quitclaim deed. The district court determined that Weitzel failed to meet her burden to invalidate the quitclaim deed, and on that basis held that the homestead-sale provision in the judgment

[1] Brandtjen alleges that this quitclaim deed was recorded, however all the previous district court orders found that this quitclaim deed was not recorded, and Brandtjen does not provide any documentation that it was recorded.

was no longer enforceable. The district court vacated the portions of the previous orders requiring Brandtjen to sell the homestead.

Weitzel and Brandtjen both moved for amended findings, and by agreement of the parties, the motions were referred to a special magistrate for resolution. The special magistrate determined that the district court's order denying Weitzel's motion to invalidate the quitclaim deed and vacating its prior orders requiring Brandtjen to sell the homestead improperly reopened and modified a property division without statutory authorization. On this basis, the special magistrate vacated the district court's order denying Weitzel's motion to invalidate the quitclaim deed and reinstated the portion of the December 2016 order requiring Brandtjen to sell the homestead. The district court signed the special magistrate's order on July 20, 2018, vacating the April 4, 2017 order, and reinstating the homestead-sale provision. Brandtjen appealed this order to this court. We reiterated that the sole basis of relief from a judgment and decree is pursuant to Minn. Stat. § 518.145, subd. 2, and determined that Brandtjen had never moved the court to modify the judgment and decree pursuant to statute. On August 12, 2020, this court issued an order opinion affirming the district court's order reinstating the homestead-sale provision of the 1999 dissolution judgment. *Brandtjen v. Weitzel*, No. A19-1344 (Minn. App. Aug. 12, 2020).

On November 11, 2020, Brandtjen moved to reopen the judgment pursuant to Minn. Stat. § 518.145, subd. 2(5). Brandtjen alleged that the judgment had been satisfied and that the judgment was no longer equitable. Under the terms of the dissolution judgment, Weitzel was required to pay half of the marital debt related to a bankruptcy proceeding. For the first time, Brandtjen alleged that he paid Weitzel's half of the bankruptcy debt in

exchange for the execution of her quitclaim deed for the homestead. The district court found that the motion pursuant to Minn. Stat. § 518.145, subd. 2 was untimely because it was filed nine and a half years after the execution of the quitclaim deed. The district court acknowledged that, although there is no bright-line test to determine reasonableness under the statute, nine and a half years is not reasonable. The district court additionally found that because the couple had reconciled, but not remarried, and Weitzel did not move the court to enforce the homestead-sale provision until 2015, it would have been reasonable to delay the motion until June 4, 2015. And that at this point Brandtjen was "on notice" that he needed to file a motion pursuant to Minn. Stat. § 518.145, and therefore his delay in waiting to file pursuant to this statute until November 2020, was not reasonable.

The district court also found that even if it were timely, Brandtjen would not succeed on the merits. The district court ordered the homestead to be put up for sale and ordered the parties to participate in alternate dispute resolution to determine the division of the net proceeds of the sale of the homestead. Brandtjen appeals, and we now consider whether Brandtjen's motion was timely.

Brandtjen claims that the district court erred when it found that his motion to reopen and modify the judgment was untimely. He argues that it was an abuse of discretion "for the district court to find in 2020 that the motion should have been brought in 2011, when the district court ruled in April 2017, that [he] did not need to bring a motion." He claims that his motion was timely because he filed it less than three months after this court issued its order opinion on August 12, 2020.

Weitzel argues that the district court did not err when it held that Brandtjen's motion to modify the judgment was untimely. She argues that Brandtjen's motion was not brought within a reasonable time. She points out that the quitclaim deed was signed in 2011, and litigation to enforce the sale provision of the judgment began in 2015. Although Brandtjen could have sought modification of the judgment pursuant to Minn. Stat. § 518.145, subd. 2, he neglected to do so until 2020, after this court held that this was the correct route to reopen the judgment.

Minnesota Statute section 518.145, subdivision 2 requires that "[t]he motion must be made within a reasonable time," but it does not define what constitutes a "reasonable time." The Minnesota Supreme Court has observed that a six-year delay represents "the outer limits of reasonableness" for moving to reopen a judgment even in the presence of fraud on the court. *Maranda v. Maranda*, 449 N.W.2d 158, 166 (Minn. 1989). After that point, "the doctrine of laches should be used to prevent abuse." *Id*. Laches, in turn, "prevent[s] one who has not been diligent in asserting a known right from recovering at the expense of one who has been prejudiced by the delay." *Winters v. Kiffmeyer*, 650 N.W.2d 167, 169 (Minn. 2002) (quotation omitted). A party possesses a known right "when he or she has actual notice of the claim or, in the exercise of proper diligence, ought to have discovered it." *Jackel v. Brower*, 668 N.W.2d 685, 691 (Minn. App. 2003), *rev. denied* (Minn. Nov. 25, 2003).

Weitzel first moved to enforce the homestead-sale provision in 2015. At that time, Brandtjen raised the quitclaim deed as a defense to enforcing the homestead-sale provision. The district court then ordered Brandtjen to list the homestead for sale. The district court

again ordered the homestead be sold in 2016, and again in 2018. Brandtjen did not provide a reason for his delay in filing a motion pursuant to Minn. Stat. § 518.145. Instead, he argued that because of the April 2017 order that found he was not required to sell the homestead, he was not required to bring the motion pursuant to the statute until this court issued its order opinion in August 2020. However, the 2017 order was vacated in 2018. Even if an argument could be made that he was not required to bring a motion pursuant to Minn. Stat. § 518.145 until the appeal process of the 2018 order was final, Brandtjen does not explain why he did not move to modify the judgment prior to 2017. Because the district court's holding is not contrary to logic and the facts on record, it did not abuse its discretion when it held that Brandtjen's motion pursuant to Minn. Stat. § 518.145, subd. 2 was untimely. *See Dobrin v. Dobrin*, 569 N.W.2d 199, 202 & n.3 (Minn. 1997).[2]

Affirmed.

[2] Because we hold that Brandtjen's motion was untimely, we need not decide whether the district court erred in holding that Brandtjen's motion would fail on the merits.