

DA 22-0712

IN THE SUPREME COURT OF THE STATE OF MONTANA

2024 MT 28N

IN RE THE MARRIAGE OF:

MARY-ELLEN CORREIA,

Petitioner and Appellee

and

BENNIDICT MAJELLA MURPHY,

Respondent and Appellant.

APPEAL FROM: District Court of the Fourth Judicial District,
In and For the County of Missoula, Cause No. DR-2021-231
Honorable Jason Marks, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Marybeth M. Sampsel, Measure Law, P.C., Kalispell, Montana


For Appellee:

Jane E. Cowley, Laird Cowley, PLLC, Missoula, Montana

Submitted on Briefs: January 17, 2024

Decided: February 13, 2024

Filed:



Clerk

Chief Justice Mike McGrath delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 The Fourth Judicial District Court, Missoula County, entered a final dissolution decree (Decree) in the marriage of Bennidict Majella Murphy (Benny) and Mary-Ellen Correia (Meco). Benny appeals, arguing the District Court abused its discretion when it credited Meco for contributions she made to certain premarital assets.

¶3 We affirm.

¶4 A district court's findings of fact are reviewed for clear error. *In re Marriage of Frank*, 2022 MT 179, ¶ 32, 410 Mont. 73, 517 P.3d 188 (citation omitted). A finding of fact is clearly erroneous if it is not supported by substantial evidence, if the court misapprehended the effect of the evidence, or if our review of the record convinces us that a mistake was made. *Frank*, ¶ 32 (citation omitted). If a district court's findings are not clearly erroneous, its division of property will be affirmed absent an abuse of discretion. *Frank*, ¶ 32 (citation omitted). An abuse of discretion occurs when a district court acts arbitrarily without conscientious judgment, or if it exceeds the bounds of reason, resulting in substantial injustice. *In re Marriage of Clark*, 2003 MT 168, ¶ 7, 316 Mont. 327, 71 P.3d 1228.

¶5 Benny and Meco entered into a domestic partnership¹ on March 20, 2003, began cohabitating in August of 2006, and were married on May 11, 2009. Between 2003 and 2009, Meco and Benny benefited from their domestic partnership by sharing auto insurance, health insurance, beneficiary status, eligibility for surviving spouse benefits, and favorable interest rates on loans.

¶6 Benny and Meco owned three Missoula-area properties, including a primary residence, “5th Street,” and two rental properties, “Rollins” and “Longstaff.” Benny purchased 5th Street in 1990 for \$55,000. Benny and Meco purchased Rollins together in 2004, and Longstaff in 2005. Based on a comparative market analysis conducted for trial, the District Court found 5th Street had a value of \$450,000 and no debt; Rollins had a value of \$495,000 and \$128,254.61 was owed on the property;² and Longstaff had a value of \$430,000 and \$83,250.49 was owed on the property.

¶7 Meco lived at Rollins between 2003 and 2006. After she moved into 5th Street with Benny in 2006, Meco began to manage both Rollins and Longstaff as rental properties. Rent payments covered the mortgage for Longstaff, but Meco typically covered around \$100 per month beyond the rent proceeds to cover the mortgage for Rollins. Meco was

¹ Meco and Benny prepared and signed a Declaration of Domestic Partnership on March 20, 2003, acknowledging that their relationship was the “functional equivalent of a marriage,” and providing that they would live together; provide mutual support, caring, commitment, and fidelity to one another; provide mutual responsibility for each other’s welfare; and provide “joint responsibility for the necessities of life.”

² The Distribution table, provided in the Appendix to the Appellant’s brief, lists the debt on Rollins as \$118,944.00. The District Court’s Findings of Fact reference the correct value at the time of the status hearing on June 1, 2021—\$128,254.61. We can find no explanation for the discrepancy in values.

responsible for managing the rentals, including tenant turnovers, disagreements with tenants, lease agreements, receiving payments, and receiving and disbursing security deposits. Meco helped make interior and exterior improvements at all three properties. Benny also made substantial improvements to the properties. He is a skilled plumber and plasterer, and generally took responsibility for property maintenance.

¶8 The District Court awarded 5th Street to Benny, and the Rollins and Longstaff properties to Meco. Meco assumed the debt on Rollins and Longstaff, which she was credited for in the distribution. Benny was credited \$55,000 for his 5th Street purchase.

¶9 Benny's retirement accounts are also at issue. Shortly before Benny and Meco married in 2009, Benny had a Charter 401(k) valued at \$29,481.86. Benny also had Edward Jones retirement accounts worth \$45,537.77. Prior to trial, the accounts were worth \$207,026.46 and \$162,682.77, respectively. The record does not show what the accounts were worth before Benny and Meco entered their domestic partnership in 2003.

¶10 Meco worked for Edward Jones from 2007 to 2008. During that time, Meco helped Benny roll-over preexisting accounts into an Edward Jones Roth and IRA. When she was no longer working with Edward Jones, Meco continued to proactively manage those accounts, including a 401K with Benny's employer, Charter Communications. Meco testified that she managed these accounts on roughly a quarterly basis, with input from Benny regarding his preferences and strategy. The full value of the accounts at the time of dissolution was included in the distribution.

¶11 The District Court ultimately distributed a total of \$834,233.10 to Benny and \$792,509.41 to Meco.

¶12 Benny contends the District Court clearly erred because its Findings of Fact do not provide an adequate basis for the distribution. Benny asserts the District Court’s erroneous findings led to an abuse of discretion in applying § 40-4-202(1)(a-c), MCA, because Meco was not a “homemaker,” and any contributions she made to the assets before the marriage should thus be excluded. In the alternative, Benny argues the District Court abused its discretion by failing to exclude contributions Meco made before she began living with Benny.

¶13 “In a proceeding for dissolution of a marriage . . . the court . . . shall . . . finally equitably apportion between the parties the property and assets belonging to either or both, *however and whenever acquired . . .*” Section 40-4-202(1), MCA (emphasis added). When determining whether and how to distribute premarital assets, district courts must consider “(a) the nonmonetary contribution of a homemaker; (b) the extent to which the contributions have facilitated the maintenance of the property; and (c) whether or not the property division serves as an alternative to maintenance arrangements.” Section 40-4-202(1), MCA. We have explained that, although these factors must be considered, the statute “nowhere provides that these ‘considerations’ constitute a constraint on the district court’s essential mandate, which is to equitably divide all assets of the parties” *Marriage of Funk*, 2012 MT 14, ¶ 16, 363 Mont. 352, 270 P.3d 39.

¶14 The District Court provided a sufficient summary of Meco’s “non-monetary contributions” to the household. Section 40-4-202(1)(a), MCA. Likewise, it explained how her contributions “facilitated maintenance of the property.” Section 40-4-202(1)(b), MCA. At 5th Street, for example, “Meco contributed to the maintenance of the property

with interior and exterior projects and contributing to household expenses.” The District Court provided the same explanation for Longstaff, adding that “Meco act[ed] as the property manager in dealing with renters.” At Rollins, “[Meco] paid the mortgage.” Regarding the retirement accounts, “Meco was heavily involved in managing Benny’s investment accounts using her training and expertise.”

¶15 Benny relies on *Marriage of Bartsch* to argue the District Court clearly erred pursuant to its obligations under § 40-4-202(1)(a-c), MCA. 2007 MT 136, 337 Mont. 386, 162 P.3d 72. There, we remanded because the district court distributed a portion of real property without providing any basis in fact establishing the wife’s contribution to it. *Bartsch*, ¶ 34. Here, by contrast, the District Court provided a clear basis for the distribution, which was rooted in extensive trial testimony. The District Court’s Findings of Fact do not “simply recite” the statutory factors. *Bartsch*, ¶ 33. We are not convinced that a mistake was made. *Frank*, ¶ 32.

¶16 Further, the District Court reasonably determined that Meco was entitled to a “homemaker contribution.” Benny directs us to *In re Marriage of Smith* to support his assertion to the contrary. 270 Mont. 263, 891 P.2d 522 (1995). In *Smith*, we affirmed the district court’s decision not to award money from two premarital trust accounts because the husband failed to demonstrate that “his actions in any way maintained or increased the value of the trusts.” 280 Mont. at 266, 891 P.2d at 524. The record here is replete with examples of Meco’s contributions to the maintenance and improvement of the marital estate, and the District Court’s Findings of Fact reference them. Benny provides us with no authority to support his assertion that Meco should not be considered a “homemaker.”

Even if Meco was not a “homemaker” in a traditional sense, the statutory factors “are not limitations on the court’s obligation to equitably apportion all of the property, based upon the unique factors of each case.” *Funk*, ¶ 34.

¶17 Finally, we are not persuaded that cohabitation is a threshold requirement for considering contributions to premarital assets. Benny misconstrues our holding in *Clark*, where we affirmed a distribution based on home improvements that substantially increased the value of the property. *Clark*, ¶ 20. We were persuaded by the fact that the wife had lived in and improved the property with her husband for roughly seven years prior to their marriage. *Clark*, ¶ 16. We did not establish, however, that a couple *must* live together before contributions will be considered in the distribution of premarital assets. The extent to which contributions increase the value of a property is the central question when determining how to equitably distribute it. *See, e.g., Clark*, ¶ 19. In our view, it would run afoul of *Clark* to deny Meco credit for her contributions simply because she did not live with Benny until 2006, particularly given Meco and Benny entered their domestic partnership in 2003 specifically for its economic advantages.

¶18 Based on our review of the record, the District Court evaluated the evidence and appropriately considered both Meco’s contributions and the nature of her domestic partnership with Benny when it issued the Decree. The District Court was in a better position to weigh the credibility of the evidence, and we are not left with the impression that its Decree was arbitrary or exceeded the bounds of reason. *Frank*, ¶ 32.

¶19 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the

Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶20 Affirmed.

/S/ MIKE McGRATH

We Concur:

/S/ LAURIE McKINNON

/S/ BETH BAKER

/S/ INGRID GUSTAFSON

/S/ JIM RICE