

**NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37**

DONNA J. BARNHART,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
JONATHAN L. BARNHART,	:	
	:	
Appellant	:	No. 231 WDA 2012

Appeal from the Order entered January 11, 2012,  
Court of Common Pleas, Cambria County,  
Civil Division at No. 2005-3380

BEFORE: DONOHUE, SHOGAN and WECHT, JJ.

MEMORANDUM BY DONOHUE, J.:

Filed: February 1, 2013

This is an appeal filed by Jonathan L. Barnhart (“Husband”) from an order regarding the equitable distribution of the parties’ marital property. A special master was appointed to hear the parties’ equitable distribution and alimony claims. The master issued a report and recommendation finding that no alimony should be awarded, but that Donna J. Barnhart (“Wife”) should receive certain assets totaling approximately 64% of the marital assets. The trial court adopted this recommendation and incorporated it into its order.

The impediment to our review is the trial court’s indication in its opinion that the values of various unidentified assets “may differ” from the value determined by the master. As such, the trial court urges the parties to come to an agreement as to the appropriate values, and indicates that if no

agreement can be reached, it would schedule a settlement conference or a hearing. Trial Court Order, 12/29/10, at 2. This is a clear call for further, necessary proceedings in the equitable distribution matter, signaling that the trial court's order did not dispose of all claims, and was therefore not a final, appealable order.<sup>1</sup> Accordingly, we quash this appeal and remand this matter to the trial court for further proceedings to dispose of the parties' claim conclusively.

In so doing, we note that our standard of review with regard to equitable distribution claims is tightly restricted to an analysis of whether the trial court erred in its application of the governing law. As this Court has previously stated:

In reviewing equitable distribution orders, our standard of review is limited. It is well established that absent an abuse of discretion on the part of the trial court, we will not reverse an award of equitable distribution. In addition, when reviewing the record of the proceedings, we are guided by the fact that trial courts have broad equitable powers to effectuate economic justice and we will find an abuse of discretion only if the trial court misapplied the laws or failed to follow proper legal procedures. Further, the finder of fact is free to believe all, part, or none of the evidence and the Superior Court will not disturb the credibility determinations of the court below. In addition, we do not evaluate the propriety of the distribution order upon our agreement with the court's actions nor do we find a basis for reversal

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<sup>1</sup> "[A]n appeal may be taken as of right from any final order of an administrative agency or lower court." Pa.R.A.P. 341(a). As is relevant to this appeal, "[a] final order is any order that[] disposes of all claims and of all parties." Pa.R.A.P. 341(b)(1).

in the court's application of a single factor. Rather, we look at the distribution as a whole, in light of the court's overall application of the 23 Pa.C.S.A. § 3502(a) factors for consideration in awarding equitable distribution. If we fail to find an abuse of discretion, the order must stand.

**Lee v. Lee**, 978 A.2d 380, 382-83 (Pa. Super. 2009) (citations omitted).

It is problematic that in this case, neither the master nor the trial court provides a discussion as to the factors contained in 23 Pa.C.S.A. § 3502(a) or other rationale for the split of the assets. While the master refers vaguely to "16 factors that must be considered," Master's Report, 4/23/10, at 10, he does not explain how they influenced his decision. The trial court fails to provide any such discussion in its opinion, either. Our limited standard of review confines us to reviewing the trial court's application of the law. Without an explanation as to how the trial court applied the law to arrive at the 64/36 proportionality, we are unable to effectively perform our review. As such, on remand, we urge the trial court to provide a detailed explanation for its decision.

The fact that this appeal must be quashed because of the lack of a final order is a reprieve for Husband who is acting *pro se*. The brief he filed was so poorly drafted that this Court could have quashed the appeal based upon the briefing defects. Our review of the record reveals that much of the complexity plaguing this case is the result of Husband's *pro se* representation in the later stages of the proceedings. While we understand

Husband's perspective that the cost of legal representation is prohibitive, we note that this is a perspective shared by many litigants who, in recognition of the long term value, adjust their budgets so that legal counsel can be retained. We respect Husband's right to represent himself. In this regard, we remind Husband that this Court does not extend special privileges to *pro se* litigants allowing them to ignore the rules of appellate procedure. We strongly suggest to Husband that he retain counsel to represent him for the duration of these proceedings, so that they may be concluded with minimal complication and delay.<sup>2</sup>

Appeal quashed. Case remanded. Jurisdiction relinquished.

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<sup>2</sup> There are two outstanding motions filed in connection with this appeal: a motion to quash filed by Wife and a motion filed by Husband, which seeks the supplementation of the original record on appeal, an order requiring the trial court to file supplemental opinions for purposes of appeal, and a stay with regard to the trial court's participation in any matters involving Husband. We deny both of these motions.