COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH

NO. 02-15-00403-CV

YUNDLANDER JONES — APPELLANT

V.

CLAUDE JONES — APPELLEE

FROM THE 325TH DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NO. 325-507689-11

MEMORANDUM OPINION[1]

Appellant Yundlander Jones[2] (Wife), proceeding pro se, appeals from the trial court's January 7, 2016 corrected judgment dividing the existing community

[1]*See* Tex. R. App. P. 47.4.

[2]Although the trial court granted Wife's request and granted her a name change to "Yolander Jackson Thomas," Wife continues to refer to herself as Yundlander Jones and she has not asserted that she applied for a change of name certificate from the trial court clerk as required. *See* Tex. Fam. Code Ann.

estate between her and appellee Claude Jones (Husband). Wife argues that the trial court ignored her evidence submitted in support of her claims for reimbursement and, therefore, abused its discretion by failing to order Husband to reimburse her these expenses. She further attacks the trial court's failure to file findings of fact and conclusions of law to support its judgment. We hold that the trial court did not abuse its discretion in its division of the community estate and that Wife's notice of past-due findings and conclusions was not timely filed.

I. PROPERTY DIVISION

Wife and Husband married in 2004 and were granted a divorce on March 22, 2013. *Jones v. Jones*, No. 02-13-00133-CV, 2014 WL 4105264, at *1 (Tex. App.—Fort Worth Aug. 21, 2014, pet. denied) (mem. op.). In the final decree, the trial court awarded Wife as her separate property a "community residence" located on Ransom Terrace in Fort Worth. *Id.* After Wife appealed, this court held that the Ransom Terrace property, which had been sold before the divorce, was erroneously included as a community asset, which "distorted the value of the community estate." *Id.* We affirmed the portion of the decree awarding Wife and Husband a divorce, but reversed and remanded to the trial court "the remainder

§ 6.706(d) (West 2006). In her brief, Wife asks "for a name change to Yundlander Jackson Thomas." In the trial court, Wife moved the trial court to change her name to "Yolander Jackson Thomas," which was the relief the trial court granted. We deny Wife's request in her brief for a different name change than that requested from and granted by the trial court.

of the trial court's judgment . . . for a new trial on the division of the community estate." *Id.*

After the remand, Wife requested that the trial court, as part of its division of the community estate, award her reimbursement for the money she spent on a house located on Harness Circle in Fort Worth, for the money she spent to satisfy Husband's premarital debts, and for the premiums she paid on Husband's medical- and life-insurance policies. She further requested to be named the beneficiary of Husband's life-insurance policy if she were not awarded reimbursement for the premiums she previously paid. On October 9, 2015, the trial court held a hearing to determine the appropriate property division. The trial court awarded to Husband as his separate property the Harness Circle house.[3] The trial court then awarded all property, monies, cars, and personal effects in the parties' possession as their respective separate property. The trial court also awarded any life-insurance policies to the named insured as his or her separate property, "and any payment on that is their responsibility from this day forward." Finally, Husband and Wife were ordered to pay 50% "of all the credit cards as of December 2, 2012." The trial court denied Wife's reimbursement requests in a separate, summary order entered that same day.

On January 14, 2016, Wife timely filed a motion for new trial requesting reimbursement for "her equity $58,466.00" in the Harness Circle house, "liabilities

[3]Husband had testified that he owned the Harness Circle house before he married Wife.

incurred prior to marriage $12,683.00," and of her premium payments that she made on Husband's insurance policies "since April 2012." The trial court denied the motion on February 4, 2016. On February 12, 2016, Wife filed a request for findings of fact and conclusions of law regarding the trial court's order denying her motion for new trial and again urged her claims for reimbursement. Thirty-two days later after the trial court failed to file findings and conclusions, Wife filed a notice of past-due findings and conclusions.

Wife appeals from the trial court's property-division judgment, arguing that she was entitled to be named the beneficiary of Husband's life-insurance policy and to reimbursement for money she paid during the marriage to satisfy Husband's pre-marital debts, including payments on the Harness Circle house, such as homeowner's insurance and "association fees."[4] She further asserts that the trial court erred by failing to file findings and conclusions although she requested them and served notice that they were past due. Husband did not file an appellate brief in response to Wife's arguments. Although Wife raises six separate issues in the issues-presented section of her brief, she argues them collectively with no reference to a corresponding issue. Indeed, some of her numbered issues are not briefed in her argument portion. We will do the same and will merely address the arguments she briefs on the merits that we are able

[4]Wife directs none of her appellate briefing to her trial-court request for reimbursement of the life-insurance premiums she paid on Husband's policy; thus, we will not address it.

to identify, but will not attempt to tie these arguments back to a specific, numbered issue.

II. FINDINGS AND CONCLUSIONS

We first address her complaint directed to the lack of findings and conclusions supporting the trial court's denial of her motion for new trial. Even if such a request were appropriate under the facts of this case, Wife did not file her notice of past-due findings and conclusions within thirty days of her original request. Accordingly, she cannot complain on appeal about their absence. *See* Tex. Fam. Code Ann. § 6.711(b) (West 2006); Tex. R. Civ. P. 297; *Sonnier v. Sonnier*, 331 S.W.3d 211, 216 (Tex. App.—Beaumont 2011, no pet.); *Burns v. Burns*, 116 S.W.3d 916, 922 (Tex. App.—Dallas 2003, no pet.).

III. REIMBURSEMENT

We turn now to Wife's arguments challenging the trial court's property division, which primarily focus on the trial court's denial of her requests for reimbursement. She points to monies she paid for Husband's "debts incurred before marriage in which she did not benefit"—"child support," "bankruptcy payments," "mortgage payment arrears," "property lien due to back taxes," and "homeowner assoc. past due fees." She also argues that she was entitled to reimbursement for the monies she paid for Husband's health-insurance premiums and for homeowner's insurance and association fees that "were paid monthly for eight years."

A claim for reimbursement arises upon dissolution of a marriage when funds from one marital estate have been expended to benefit another marital estate. *See* Tex. Fam. Code Ann. § 3.404(b) (West Supp. 2016). In disposing of such a claim, a trial court "shall apply equitable principles" first to "determine whether to recognize the claim after taking into account all the relative circumstances of the spouses," and second to order a just and right division of the claim for reimbursement, "if appropriate, . . . having due regard for the rights of each party." *Id.* § 7.007 (West Supp. 2016); *see also id.* § 3.402(b) (West Supp. 2016). A spouse seeking reimbursement has the burden of pleading and proof to show that a contribution was made by one marital estate to another, that the contribution was reimbursable, and the value of the contribution. *See id.* § 3.402(e); *Hinton v. Burns*, 433 S.W.3d 189, 195 (Tex. App.—Dallas 2014, no pet.); *Roberts v. Roberts*, 402 S.W.3d 833, 838 (Tex. App.—San Antonio 2013, no pet.) (en banc op. on reconsideration). A trial court has broad discretion to determine a reimbursement claim; thus, we review that determination for an abuse, presuming that the trial court properly exercised its discretion. *See Vallone v. Vallone*, 644 S.W.2d 455, 460 (Tex. 1982); *Chavez v. Chavez*, 269 S.W.3d 763, 768 (Tex. App.—Dallas 2008, no pet.).

Wife's claims for reimbursement directed to child-support payments are specifically categorized as nonreimbursable. *See* Tex. Fam. Code Ann. § 3.409(1) (West 2006). Similarly her claims for reimbursement for health-insurance premiums, homeowners' insurance, and homeowners' association

fees also fail. Those expenditures were for nonreimbursable, community living expenses. *See id.* § 3.409(2); *Norris v. Vaughan*, 260 S.W.2d 676, 683 (Tex. 1953); *McCoy v. McCoy*, No. 02-15-00208-CV, 2016 WL 3659122, at *3 & n.5 (Tex. App.—Fort Worth July 7, 2016, no pet.) (mem. op.); *Pelzig v. Berkebile*, 931 S.W.2d 398, 400 (Tex. App.—Corpus Christi 1996, no writ); *cf. In re Marriage of Gill*, 41 S.W.3d 255, 258 (Tex. App.—Waco 2001, no pet.) ("[I]t is well established that debts contracted during marriage are presumed to be community obligations, unless it is shown by clear and convincing evidence that the creditor agreed to look solely to the separate estate of the contracting spouse.").

Regarding Wife's remaining reimbursement requests for her contributions to retire Husband's premarital debts—"bankruptcy payments," "mortgage payment arrears," "property lien due to back taxes," and "homeowner assoc. past due fees"—we conclude that she did not meet her burden of production to show an abuse of the trial court's broad discretion. *See Marriage of O'Brien*, 436 S.W.3d 78, 83–84 (Tex. App.—Houston [14th Dist.] 2014, no pet.). Although Wife submitted copies of credit-card and joint-bank-account statements showing withdrawals and payments during the marriage, these are not tied to any specific payment for a specific debt. *See Gill*, 41 S.W.3d at 258. And Wife failed to trace any funds she claimed were spent on Husband's premarital debts to either the community estate or her separate estate. *See O'Brien*, 436 S.W.3d at 83–84; *Sonnier*, 331 S.W.3d at 216–17. Finally, the trial court heard evidence that Wife

had sold the Ransom Terrace house during the marriage to her sixteen-year-old nephew but continued living there alone, which could have supported a conclusion that the equities did not favor granting Wife reimbursement based on her and Husband's relative circumstances. *See Sonnier*, 331 S.W.3d at 217.

IV. BENEFICIARY DESIGNATION

Finally, Wife argues that the trial court acted "unjust[ly], unfair[ly], and without cause" when it denied her the "right to remain beneficiary of the ten thousand dollar life insurance policy." It is unclear which policy Wife is referring to. At the trial court's October 9, 2015 hearing, Wife introduced as evidence a payment history for "Spouse Life Insurance" provided through Wife's employer, showing that she had paid $4.17 on May 6, 2015. But she also introduced a May 18, 2015 premium notice for a term life-insurance policy issued to Husband by "AARP Life Insurance Program."[5] In any event, Wife failed to meet her burden of proof to establish that the trial court abused its discretion by determining that

[5]Wife fails to brief the effect of the Employee Retirement Income Security Act on the employer-provided policy or the effect of the inception-of-title rule on the AARP policy. *See* Joan Foote Jenkins & Randall B. Wilhite, *O'Connor's Texas Family Law Handbook* 123–25 (2017). In the absence of briefing on this issue, we cannot conclude that the trial court abused its discretion in this property-division determination. Accordingly, our discussion of this argument necessarily is terse. Further, because Wife's evidence regarding the policies arose in 2015—three years after the trial court granted the parties' divorce—its evidentiary value to a determination of the appropriate division of the community estate is suspect. *See Logsdon v. Logsdon*, No. 02-16-00063-CV, 2017 WL 632905, at *3–4 (Tex. App.—Fort Worth Feb. 16, 2017, no pet.) (mem. op.) (recognizing after parties are orally declared divorced, they do not accumulate community property subject to property division).

Husband and Wife were entitled to their own life-insurance policies. Just as the trial court did not mandate that Husband name Wife as the beneficiary on his policy, Wife was not required to name Husband as the beneficiary of hers. *Cf.* Tex. Ins. Code Ann. § 1113.001 (West 2009) (providing spouse has autonomous right of "management, control, and disposition" regarding life-insurance policy issued in that spouse's name); *Street v. Skipper*, 887 S.W.2d 78, 81 (Tex. App.—Fort Worth 1994, writ denied) (holding surviving wife's share of proceeds from community life-insurance policy that was gifted to husband's estate was not unfair to surviving wife because husband had bequeathed to wife other portions of his share of community estate that balanced gift of insurance proceeds and "that aptly made up the difference"). The trial court's decision could have been an appropriate, discretionary, and equitable property-division determination, which we defer to in the absence of Wife's showing of a clear abuse. *See* Tex. Fam. Code Ann. § 7.001 (West 2006); *Doughty v. Doughty*, No. 03-04-00348-CV, 2006 WL 1041162, at *1, *3 (Tex. App.—Austin Apr. 21, 2006, no pet.) (mem. op.).

V. CONCLUSION

Wife failed to follow the applicable procedural rules in requesting findings and conclusions to support the trial court's property division; thus, she has waived any argument directed to their absence. Wife also did not meet her burden of proof regarding her requests for reimbursement or to be the named beneficiary of Husband's life-insurance policy such that we may categorize the

trial court's judgment as an abuse of its broad discretion. Accordingly, we overrule Wife's arguments and affirm the trial court's judgment. *See* Tex. R. App. P. 43.2(a).

PER CURIAM

PANEL: GABRIEL, J.; LIVINGSTON, C.J.; and SUDDERTH, J.

DELIVERED: May 4, 2017