


IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT KILTZ,
Appellant,
vs.
MARGARET D. KILTZ,
Respondent.

No. 50160

FILED

JAN 15 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court divorce decree. Ninth Judicial District Court, Douglas County; David R. Gamble, Judge.

Appellant Robert Kiltz and respondent Margaret D. Kiltz were married in April 2005. In November 2006, Robert filed a complaint for divorce against Margaret. After a bench trial, during which the parties, both acting in proper person, offered testimony and documentary evidence regarding their debts and their contributions toward certain assets, the district court granted the parties a divorce and divided their property.

With regard to the property division, the court determined that clear and convincing evidence demonstrated that a bank account was Margaret's separate property and that she did not intend to gift that account to the community. The district court also found that, based on the testimony and documentary evidence, an unequal disposition of the parties' community property was warranted. In particular, the court found that Margaret had used funds from her separate property account to pay the marital home's mortgage, utility bills, taxes, and other household obligations. Next, the court determined that Margaret had used approximately \$120,000 in proceeds from the sale of her premarital

separate real property to acquire the marital home, and that the community had no equity in the marital home.

As for other property, the court found that, from her separate property account, Margaret had paid the \$29,417.40 balance owed on a loan for Robert's semi-truck, paid for a motorcycle, and made a down payment on another motorcycle (which was subsequently sold to a third party for the loan pay-off amount). In terms of debt, the court determined that, after the parties separated, Robert had charged \$5,427 on a credit card that was billable in Margaret's name.

In the decree, the court awarded Margret her separate bank account, savings account, and retirement account, several vehicles, the motorcycle in her possession, and various household items. After determining that Margaret was entitled to a \$60,000 reimbursement from Robert based on her \$120,000 separate property contribution for the down payment on the marital home, the court awarded, to Margaret, Robert's one-half interest in the home in satisfaction of the \$60,000. The decree awarded Robert five vehicles and the semi-truck, but also required Robert to reimburse Margaret the \$29,417.40 that she had paid from her separate property account to satisfy the loan balance on the semi-truck. Finally, the decree required Robert to pay the credit card debt that he had accumulated after the parties' separation. Robert appeals.

On appeal, Robert argues that the district court abused its discretion by admitting and considering documentary evidence (offered by both Robert and Margaret), because the parties had not complied with discovery procedures by disclosing the documents to each other before the trial. According to Robert, he was prejudiced by the evidence that Margaret offered and was prevented from showing that he also had

contributed to the bank account that the court determined was Margaret's separate property. Robert asserts that the parties commingled funds in that account, converting it into community property. Regardless, he maintains, the court's finding that Margaret did not intend to gift the monies that she had contributed for the marital home's down payment, the semi-truck loan payoff, and the motorcycle are not supported by clear and convincing evidence. Finally, Robert contends that furniture in Margaret's possession (awarded to her by the terms of the decree) was a "mutual Christmas present," subject to an equitable division.

We review a district court's decisions concerning divorce proceedings for an abuse of discretion, and we will affirm the court's rulings regarding the characterization and disposition of property in such proceedings if supported by substantial evidence.¹ Separate property placed into joint tenancy is presumed to be a gift to the community unless that presumption is overcome by clear and convincing evidence.² In granting a divorce, the trial court may make an unequal disposition of the community property in such proportions as it deems just, if the court finds a compelling reason to do so and it sets forth that reason in writing.³ Also, when disposing of any property held in joint tenancy, the court may provide for reimbursement to a party who has made a contribution of separate property to the acquisition of the joint tenancy property.⁴ In

¹Shydler v. Shydler, 114 Nev. 192, 196, 954 P.2d 37, 39 (1998).

²Schmanski v. Schmanski, 115 Nev. 247, 250, 984 P.2d 752, 755 (1999).


³NRS 125.150(1)(b).

⁴NRS 125.150(2).

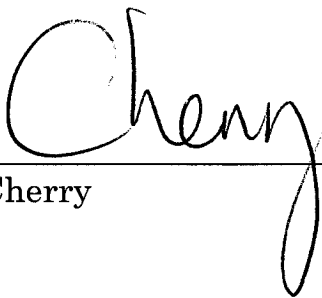
determining whether to provide for such reimbursement, the court considers the parties' intention in placing the property in joint tenancy, the length of the marriage, and any other factor that the court deems relevant to a just and equitable disposition of that property.⁵

Here, having reviewed the record and Robert's civil proper person appeal statement, we conclude that substantial evidence supports the district court's characterization of the parties' property and its community property distribution. Although Robert maintains that the district court improperly considered evidence that the parties had not disclosed to each other, neither party had filed a motion to compel disclosure of evidence before trial, and at any rate, the district court acted within its discretion by considering both parties' testimony and documentary evidence in rendering its decision.⁶ Accordingly, we


ORDER the judgment of the district court AFFIRMED.⁷

 J.

Maupin

 J.

Cherry

 J.

Saitta

⁵NRS 125.150(2)(a)-(c).

⁶See University & Cmty. Col. Sys. v. Sutton, 120 Nev. 972, 985, 103 P.3d 8, 16-17 (providing that the decision to admit relevant evidence is within the trial judge's sound discretion). There is nothing in the record to support Robert's contention that he objected to or was prevented from refuting Margaret's evidence concerning the bank account.

⁷In light of this order, Robert's motion for a stay is denied.

cc: Hon. David R. Gamble, District Judge
Robert Kiltz
Margaret D. Kiltz
Douglas County Clerk