

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Christopher L. Blagburn,
Appellant-Respondent

v.

Sally J. Schwartz,
Appellee-Petitioner

March 12, 2024

Court of Appeals Case No.
23A-MI-1374

Appeal from the Hancock Superior Court
The Honorable Donald J. Davis, Judge

Trial Court Cause No.
30D01-2103-MI-413

Memorandum Decision by Judge Weissmann
Chief Judge Altice and Judge Kenworthy concur.

Weissmann, Judge.

- [1] Christopher Blagburn and Sally Schwartz are embroiled in litigation over several parcels of real property they jointly own. Schwartz wishes to partition and sell the properties. But this process has been delayed for nearly two years by Blagburn’s counterclaims. Schwartz therefore moved to bifurcate the partition issue from the rest of her and Blagburn’s legal dispute. The trial court granted the bifurcation request, and Blagburn appeals that decision. Finding no abuse of the trial court’s discretion, we affirm.

Facts

- [2] From 2015 to 2020, Schwartz and Blagburn were in a romantic relationship. During this time, the two acquired several properties together, including two houses and a vacant lot. When their relationship ended, Schwartz moved under Indiana’s partition statutes to sell the properties without Blagburn’s approval.¹
- [3] The partition action quickly stalled. Although Blagburn agreed that partition was proper, he objected to doing so until the trial court had determined the amount of equity each side had in each property. Blagburn also raised a litany of affirmative defenses and counterclaims. The counterclaims related to disputes about various debts Schwartz allegedly owes Blagburn and miscellaneous personal property that Schwartz allegedly wrongfully possesses.

¹ *See generally* Ind. Code § 32-17-4-1 *et seq.*

[4] Nearly two years passed with little progress until January 2023, when Schwartz filed a motion to bifurcate, or separate, the partition issue from the rest of the litigation. The trial court granted the motion, and Blagburn filed this interlocutory appeal.

Discussion and Decision

[5] The sole issue here is whether the trial court erred in granting Schwartz’s bifurcation motion. Trial courts have “a wide degree of latitude” in separating legal issues. *Dan Cristiani Excavating Co. v. Money*, 941 N.E.2d 1072, 1075 (Ind. Ct. App. 2011) (quoting *Elkhart Cmty. Schs. V. Yoder*, 696 N.E.2d 409, 414 (Ind. Ct. App. 1998)). A decision to bifurcate will be reversed only for an abuse of that discretion.² *Id.* “An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances before it.” *Franciscan All. Inc. v. Metzman*, 192 N.E.3d 957, 967 (Ind. Ct. App. 2022).

[6] Indiana Trial Rule 42(B) provides:

The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party

² Blagburn’s repeated assertions that this appeal is somehow a question of interpretation entitled to de novo review is mistaken.

claims, or issues, always preserving inviolate the right of trial by jury.

In other words, “[t]he court balances the interests of convenience and economy against the likelihood of substantial prejudice to the [non-movant’s] case.” *Yoder*, 696 N.E.2d at 414.

[7] Blagburn does not show that bifurcation will prejudice him. If the properties are sold before his counterclaims are resolved, Blagburn worries that Schwartz might waste the proceeds of the sale and be unable to satisfy a potential judgment against her. This hypothetical misses the mark. Blagburn points to no evidence that Schwartz would lack the means to satisfy any judgment against her, and given that the trial court granted the bifurcation motion, it apparently saw no reason for concern either. Blagburn also ignores that Schwartz has suffered prejudice by the years-long delay of her partition action. The trial court did not abuse its discretion in concluding that these facts supported bifurcation.

[8] Next, Blagburn contends the trial court erred in bifurcating the partition issue because he is asserting compulsory counterclaims that, he says, involve the underlying property. We disagree. A counterclaim is compulsory “if it arises out of the transaction or occurrence that is the subject-matter of the opposing party’s claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction.” Ind. Trial Rule. 13(A). As Schwartz points out, none of Blagburn’s claims involve the property to be partitioned. The closest is Blagburn’s counterclaim alleging that certain tools of his may remain on one of the properties. App. Vol. II, pp. 44-47.

[9] Indeed, even Blagburn does not seem able to identify any specific connection between the partition action and his counterclaims. He merely asserts that his counterclaims “arise out of their purchase of real estate, intermingling of assets, and services rendered during a romantic relationship.” Appellant’s Br., p. 17. Thus, we see no merit to Blagburn’s argument that bifurcation interferes with the resolution of his counterclaims.³

[10] Because Blagburn failed to prove that the trial court abused its discretion in bifurcating the partition issue from the rest of his and Schwartz’s legal dispute, we affirm.

Altice, C.J., and Kenworthy, J., concur.

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³ We also summarily reject Blagburn’s unsupported allegation that bifurcation is inappropriate in a bench trial.