MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Lindsey Stephens,
Appellant-Petitioner

v.

Quintin A. Stephens,
Appellee-Respondent

February 26, 2024

Court of Appeals Case No.
22A-DC-3099

Appeal from the Marion Superior Court

The Honorable Marshelle Dawkins Broadwell, Judge

Trial Court Cause No.
49D16-2008-DC-27549

Memorandum Decision by Judge Foley
Judges Pyle and Tavitas concur.

Foley, Judge.

[1] Lindsey Stephens ("Wife") appeals from the trial court's order dissolving her marriage to Quintin A. Stephens ("Husband") and dividing the parties' marital property. Wife raises two issues for our review, which we consolidate and restate as: whether the trial court abused its discretion in its division of the marital property. We affirm.

Facts and Procedural History

[2] Husband and Wife (together, "the Parties") were married on or about April 9, 2016. The Parties had one child together, F.S., who was six years old at the time of final hearing in this case. Wife had one prior born child who lived with the Parties during the course of the marriage and was approximately ten years old at the time of the final hearing in this case.

[3] During the marriage, Wife was a stay-at-home mom while Husband worked as a barber. The Parties resided in a home on Earlswood Lane ("the Marital Residence") during the course of the marriage, and Wife continued to live in the Marital Residence with both children at the time of the final hearing. In April 2020, Husband's father passed away, leaving Husband an inheritance, which included property located on Sherman Drive ("the Property"). Although Husband's father passed away in April 2020, Husband testified that the estate was in probate for six months, and he did not take possession of the Property until six months after his father passed away.

[4] On August 12, 2020, Wife filed a petition for dissolution of the marriage. The dissolution matter was pending for a little more than two years, from the date of the filing of the petition until the dissolution decree was issued. While the dissolution was pending, Wife was granted temporary possession of the Marital Residence and lived there with both minor children while Husband was responsible for the mortgage.

[5] On September 27, 2022, and November 28, 2022, the final hearing was held on the dissolution petition. At the hearing, Wife requested that she be awarded the Marital Residence. She presented evidence from an appraiser that the value of the Marital Residence at the time the dissolution petition was filed was $182,500 and that the value as of August 2022 was $221,100. Wife also testified that, at the time she filed the dissolution petition, the Parties had two vehicles, each valued at $6,000. Wife did not present any documentation to support these values and there was no testimony indicating who had possession of the vehicles.

[6] Husband testified that, sometime after he took possession of the Property, he sold the Property for $26,000. Neither party presented documentation to support the value of the Property. Testimony was given that Husband used the $26,000 from the sale of the Property to pay off debt. Testimony was also presented that Wife inherited an agricultural parcel of land located in Jefferson County, Indiana in 1993 that totaled approximately sixty-four acres. She owns it jointly with her two brothers, and the property is used as farmland that "gets bailed for hay," with the money from the hay going to "pay the taxes." Tr. Vol.

3 p. 71. Wife attributed a value of $0 for this property on her marital balance sheet and did not present any evidence regarding the value of the agricultural property.

[7] Following the final hearing, the trial court issued its dissolution decree dissolving the marriage and dividing the marital property. In the decree, the trial court found that, "[n]otwithstanding the cause pending for an excessive period of time, both parties provided highly inadequate presentations with respect to all financial aspects of this cause, despite ample time to do so." Appellant's App. Vol. 2 p. 35. In dividing the marital property, the trial court found that "the only asset proven by a preponderance of the evidence that may be included in [the] marital estate is the [M]arital [R]esidence." *Id*. at 42. The trial court ordered that both Wife and Husband be responsible for any debt in their individual name and maintain possession of "any vehicles, personal property[,] and bank and investment accounts currently in [his or her] possession." *Id*. at 42–43. The trial court equally divided the marital estate and ordered that, within sixty days of the order, "the [M]arital [R]esidence will be listed for sale, with the proceeds divided between the [P]arties" and that the proceeds will be held in a trust account then divided with each party receiving fifty percent of the proceeds. Wife was also entitled to an amount equal to Husband's child support arrearage to be paid from his half of the proceeds. *Id*. at 43. Wife now appeals.

Discussion and Decision

[8] Initially, we note that Husband did not file an appellee's brief. When an appellee fails to submit a brief on appeal, we apply a less stringent standard of review with respect to the showing necessary to establish reversible error. *In re Paternity of S.C.*, 966 N.E.2d 143, 148 (Ind. Ct. App. 2012), *trans. denied.* We may reverse if the appellant establishes prima facie error, which is an error at first sight, on first appearance, or on the face of it. *Id.* "Moreover, we will not undertake the burden of developing legal arguments on the appellee's behalf." *Id.* Nevertheless, even under this less stringent standard, we are obligated to correctly apply the law to the facts in the record to determine whether reversal is warranted. *Tisdale v. Bolick*, 978 N.E.2d 30, 34 (Ind. Ct. App. 2012).

[9] The division of marital property is within the sound discretion of the trial court, and we will reverse only for an abuse of discretion. *In re Marek*, 47 N.E.3d 1283, 1287 (Ind. Ct. App. 2016), *trans. denied*. "We will reverse a trial court's division of marital property only if there is no rational basis for the award; that is, if the result is clearly against the logic and effect of the facts and circumstances, including the reasonable inferences to be drawn therefrom." *Id*. When we review a claim that the trial court improperly divided marital property, we consider only the evidence most favorable to the trial court's disposition of the property without reweighing evidence or assessing witness credibility. *Id*. at 1288–89. "Although the facts and reasonable inferences might allow for a conclusion different from that reached by the trial

court, we will not substitute our judgment for that of the trial court." *Id*. at 1289.

[10] It is well-settled that, in a dissolution action, all marital property—whether owned by either spouse before the marriage, acquired by either spouse after the marriage and before final separation of the parties, or acquired by their joint efforts—goes into the marital pot for division. Ind. Code § 31-15-7-4(a); *Falatovics v. Falatovics*, 15 N.E.3d 108, 110 (Ind. Ct. App. 2014). For purposes of dissolution, property means "all the assets of either party or both parties[.]" I.C. § 31-9-2-98(b). This "one pot" theory ensures that all assets are subject to the trial court's power to divide and award. *Carr v. Carr*, 49 N.E.3d 1086, 1089 (Ind. Ct. App. 2016), *trans. denied*. Indiana Code section 31-15-7-4 provides the trial court shall divide the property of the parties in a just and reasonable manner, whether that property was owned by either spouse before the marriage, acquired by either spouse in his or her own right after the marriage and before the final separation, or acquired by their joint efforts. An equal division is presumed to be a just and reasonable division. I.C. § 31-15-7-5. A challenger must overcome a strong presumption that the court considered and complied with the applicable statute, and that presumption is one of the strongest presumptions applicable to our consideration on appeal. *J.M.*, 844 N.E.2d at 602.

[11] Wife argues that the trial court abused its discretion in its division of the marital property. First, she contends that the trial court erred because, in assessing the marital estate, the court excluded several purported marital assets from the

marital pot, particularly $26,000 attributed to the Property that Husband inherited from his father and approximately $12,000 in vehicles owned by Husband. Second, Wife asserts that the trial court erred when it ordered the Parties to sell the Marital Residence because it forced a sale of the home when she had requested that she be awarded the Marital Residence to live in with the children.

[12] Although Wife asserts that the trial court excluded approximately $38,000 in assets from the marital pot, we disagree. Looking at the evidence most favorable to the trial court's determination as we must, we agree with the trial court that neither party produced adequate evidence of the financial aspects of this case. In its order, the trial court explicitly found that Wife's testimony and evidence regarding the marital estate was "highly incredible and deliberately misleading." Appellant's App. Vol. 2 p. 41. Specifically pertinent to Wife's assertions on appeal, there was no evidence or documentation besides Wife's self-serving testimony regarding the vehicles and their value. Further, there was no evidence as to who was in possession of either vehicle. Wife merely testified that they were "maintained" by Husband and that the titles to each vehicle were in Husband's name. Tr. Vol. 2 p. 56. However, in its order, the trial court ordered that Husband and Wife were to maintain possession of "any vehicles, personal property[,] and bank and investment accounts currently in [his or her] possession." Appellant's App. Vol. 2 pp. 42–43. Thus, the court did include the vehicles as marital property without specific values attached as no reliable evidence was presented to establish the values.

[13] As to the $26,000 purportedly attributable to the Property inherited by Husband, the trial court specifically discussed the Property but then expounded on how there was no reliable evidence of the Property's value presented to the court. Therefore, the trial court did include the Property in the marital pot and implicitly set it aside to Husband as his property, just as it did with Wife's interest in her family's agricultural parcel. Because neither of the Parties presented reliable evidence of the value of either property, the trial court set aside each asset to Husband and Wife as the possessors of the asset but did not include such assets in the divisible marital property that had ascertainable value. We, therefore, conclude that the trial court did not abuse its discretion in dividing the marital estate.

[14] To the extent that Wife argues that the trial court abused its discretion when it ordered the sale of the Marital Residence, we do not find error. The trial court was clear in the decree that both parties had provided "highly inadequate presentations with the respect to all financial aspects of this case," Appellant's App. Vol. 2 p. 42, and, therefore, the only value proven by a preponderance of the evidence was the value of the Marital Residence. In ordering that the Marital Residence be sold, the trial court crafted a way to equally divide that portion of the marital estate that was susceptible of valuation and ensure that Husband's child support arrearage be paid to Wife. We note that the order to sell the real estate and divide the net proceeds avoided Wife being left with a cash equalization payment to Husband and provided a means for Husband to satisfy his substantial child support arrearage in a marital estate that does not

appear to have any liquidity. On appeal, Wife does not argue that the trial court abused its discretion when it determined that the marital estate should be equally divided between the Parties, merely that the trial abused its discretion because she asked to be awarded the Marital Residence. Although Wife requested that she be awarded that Marital Residence in the division of property, we cannot say that the trial court abused its discretion in determining that it should be sold so the Parties could equally divide the proceeds of the sale with Husband's share subject to his child support arrearage.

[15] The trial court's division of the marital property was not against the logic and effect of the facts and circumstances before it, and we, therefore, conclude that the court did not abuse its discretion in dividing the marital property.

[16] Affirmed.

Pyle, J., and Tavitas, J., concur.

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