

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-038

OCTOBER TERM, 2005

Laureen R. Silovich	}	APPEALED FROM:	}
v.	}	Orange Family Court	}
	}		}
Joseph Silovich	}	DOCKET NO. 132-9-03 Oedm	}

Trial Judge: Alan Cheever

In the above-entitled cause, the Clerk will enter:

Wife Laureen Silovich appeals pro se from the family court=s final divorce order. She argues that the family court erred by failing to make findings and awarding husband about half of the equity in the marital home and requiring her to pay husband his share within two years at an annual interest rate of 12%. We remand to the family court for additional findings and for resolution of a motion for clarification that wife filed with the family court during the pendency of this appeal.

Wife initiated divorce proceedings in 2003. After a hearing, the family court made findings on the record. It also issued a written form order which, under the heading of AProperty Division . . . Real Estate,@ awarded the marital home to wife, and also ordered her to execute a promissory note to defendant in the amount of \$61,168 at 12% per annum, payable in two years. In exchange, defendant would provide wife with a quit claim deed. Wife appealed from the family court=s order.

Wife asserts that the family court erred because it failed to make written findings to support its conclusions. Wife complains that the court failed to find the value of the marital home, and it failed to explain why it awarded husband his particular share of the equity in the home, leaving the court=s reasoning for its decision open to speculation.

Although wife did not request written findings under V.R.C.P. 52(a), the family court made findings on the record on its own initiative. This is permissible under V.R.C.P. 52(a), but Afindings made under these circumstances must still meet the test of adequacy.@ Mayer v. Mayer, 144 Vt. 214, 215 (1984). As we explained in Mayer, A[a] major purpose of findings is to enable this Court, on appeal, to determine how the trial court=s decision was reached. Therefore, the facts essential to the disposition of the case must be stated.@ Id. at 216-17 (internal citations omitted). In this case, the court found that the marital home had a value of \$261,820, with \$130,210 still owed on the property. Presumably, this left \$131,610 in equity. The court found, however, that the net equity was \$148,610, and it awarded husband approximately forty percent of this amount. While the court may have included the purchase price of the land in determining the equity, we cannot discern from its findings how it arrived at this figure. Additionally, we cannot discern the court=s rationale for requiring wife, who is parenting five children, to pay husband his share of the equity in the marital home within two years. The basis of this decision is not apparent from the court=s findings, and we therefore reverse and remand the court=s property division for additional findings of fact. On remand, the court should also consider the merits of wife=s motion for clarification.

Reversed and remanded for additional findings.

BY THE COURT:

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice