

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-209

NOVEMBER TERM, 2002

	}	APPEALED FROM:
	}	
Lena Menard	}	Windsor Family Court
	}	
v.	}	
	}	DOCKET NO. 411-9-00 Wrdm
Ronald A. Menard	}	
	}	Trial Judge: Theresa S. DiMauro
	}	
	}	

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

Wife appeals from a divorce judgment of the Windsor Family Court. She contends that the court abused its discretion in: (1) dividing the marital assets; and (2) allocating the marital debts. We affirm.

The parties were married in February 1989 and separated in September 2000. Following a hearing, the court entered a final judgment of divorce in April 2002. Husband was fifty-three years old at the time of the divorce, wife was forty-eight. Each had been previously married. There were no children of the marriage.

Both parties had full-time jobs and maintained separate checking accounts. They resided on property in Sharon which husband had purchased in 1989. For several years, they lived in a mobile home on the property which had been purchased by wife's parents. In 1995, the parties took a mortgage on the land to purchase a log cabin kit and thereafter cleared the land and constructed a home. The court found that husband made all of the mortgage payments, paid for all of the materials to construct the home, and paid all of the property taxes. The court further found that husband took over all of the credit card payments in late 1994 or early 1995.

The bulk of the marital estate, which the court valued at \$117,075, was the marital home, which the court found had an equity value of \$104,755. The court awarded the home, a tractor, and several older cars to husband, and awarded a car, several IRA's, and a cash payment of \$33,856 to wife. The division resulted in an award valued at \$76,099, or 65% of the marital estate, to husband, and \$40,976, or 35% of the estate, to wife. The court further ordered that each party would be responsible for any debts incurred in his or her own name. The court denied wife's subsequent motion to amend the judgment. This appeal followed.

Wife contends that the court abused its discretion in awarding a disproportionate share of the marital estate to husband. Specifically, she contends that the court erred in failing adequately to credit her contributions as a homemaker and her efforts, and those of her family, in helping to construct the marital home. Wife points to no record evidence to support the claim that she made significant contributions as a homemaker. Furthermore, the court's findings demonstrate that it was aware of wife's assistance, as well as that of her family, to the construction of the home, but determined that husband's labor and financial contributions greatly outweighed these efforts, and warranted a larger award of the marital estate. The trial court enjoys broad discretion in weighing the statutory factors for dividing a marital estate, and

its decision will not be disturbed unless its discretion was abused, withheld, or exercised on grounds clearly untenable. Semprebon v. Semprebon, 157 Vt. 209, 215 (1991). We will not disturb the court's findings unless, viewing the evidence in the light most favorable to the judgment and excluding the effect of modifying evidence, a finding is clearly erroneous. Id. at 214. The record evidence here supports the court's findings as to the parties' respective contributions to the marital home, and the findings support the court's decision to award the majority of the estate, including the marital home, to husband. Accordingly, we discern no basis to disturb the ruling.

Wife also contends that the court abused its discretion by awarding husband certain unspecified household furnishings in his possession that she claims were charges on her Chase and Sears credit cards which she must now pay. The court ordered each party to pay his or her own separate debts, including current credit card debts. It also found, however, that husband had made all of the monthly credit card payments on wife's cards from late 1994 or early 1995 until the parties separated in the fall of 2000. Therefore, the court found that it was equitable to order the parties to pay the current debts in their names, rather than allocate personal property on the basis of who had paid for what. The court's ruling was well within its broad discretion, and therefore may not be disturbed on appeal. Id. at 215.

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

John A. Dooley, Associate Justice

James L. Morse, Associate Justice