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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2004-334

NOVEMBER TERM, 2004

Kellie Collins	}	APPEALED FROM:
	}	
v.	}	Orleans Family Court
	}	
John Collins	}	
	}	DOCKET NO. 81-4-04 Osdm
		Trial Judge: Dennis R. Pearson

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

Wife appeals from the family court's order denying her motion for reconsideration of the court's dismissal of her divorce complaint. She asserts that the court was obligated to dissolve the parties' marriage under 15 V.S.A. § 592, and under the doctrine of "divisible divorce." We affirm.

Husband and wife married in 1979. They lived in New York until June 2003, when wife left husband and moved to Vermont. Husband continues to live in New York. In April 2004, wife filed a complaint for divorce with the Orleans Family Court wherein she sought a dissolution of the marriage, maintenance, and a division of the marital property. A copy of the complaint was served on husband in New York. Husband moved to dismiss the complaint, asserting that the family court lacked personal jurisdiction over him because he did not have the requisite minimum contacts with Vermont. The family court agreed, and dismissed wife's complaint. The court explained that husband had no general or significant contacts with Vermont, other than meeting with wife in Vermont four times over the course of ten months to discuss their marriage. The court found these meetings analogous to "special appearances" as they were solely in connection with husband's attempts to negotiate a resolution of the imminent divorce action. The court attached no special significance to these visits, and found that Vermont had no more particularized interest in the parties' marriage than New York, and probably less. The court also noted that any prospective witnesses would more likely be found in New York than Vermont. The court therefore dismissed wife's complaint without prejudice for lack of personal jurisdiction over husband.

Wife moved for reconsideration, asking the court to sever all other issues from the divorce action, and dissolve her marriage pursuant to the doctrine of divisible divorce recognized in Poston v. Poston, 160 Vt. 1, 5-6 (1993). Wife also asserted, alternatively, that the court erred in finding that husband did not have any general or significant contacts with Vermont. The court denied wife's motion, finding that she had advanced no compelling reason why it should not continue to decline

jurisdiction under the doctrine of forum non conveniens. The court explained that the dissolution of the parties' marital status alone was not the controlling issue, and the parties essentially conceded that the Vermont family court could not address the issues of martial property division, child support, maintenance, and related matters. The court reiterated its position that it lacked personal jurisdiction over husband. Wife appealed.

Wife asserts that the court erred in denying her motion for reconsideration because it was obligated to dissolve her marriage. Wife argues that she satisfied the residency requirement set forth in 15 V.S.A. § 592, and articulated a proper ground for divorce as provided in 15 V.S.A. § 551(7). According to wife, Vermont has both a particularized interest and a stake in the parties' marriage by virtue of its command over its domiciliaries and its large interest in the institution of marriage, particularly in light of her compliance with the requirements of 15 V.S.A. § 551 and 15 V.S.A. § 592. Wife maintains that, for these reasons, Vermont's particularized interest in the parties' marriage is clearly superior to that of New York. Wife also asserts that the family court erred in finding that the dissolution of the marriage was not the driving force behind her complaint.

We find these arguments without merit. The family court did not abuse its discretion by refusing to grant the parties a divorce pursuant to the divisible-divorce concept discussed in Poston. There, we recognized that a state court retains authority to alter the marital status of its residents, even if it lacks personal jurisdiction over an out-of-state party, to resolve issues related to the dissolution of the marriage. See Poston, 160 Vt. at 5 (" '[E]ach state, by virtue of its command over its domiciliaries and its large interest in the institution of marriage, can alter within its own borders the marriage status of the spouse domiciled there, even though the other spouse is absent.' " (quoting Williams v. North Carolina, 317 U.S. 287, 298-99 (1942))). Thus, under the doctrine of divisible divorce, "issues other than the dissolution of the marriage are severed from the divorce action," and "the judgment does not resolve issues other than the marital status of the parties." Id. While we recognize the family court's authority to dissolve the marriage of one of its residents, wife offers no support for her assertion that the court must dissolve a parties' marriage where, as here, it lacks jurisdiction to resolve issues related to the parties' divorce, such as child support, maintenance, and division of the marital estate. We find no abuse of discretion in the court's denial of wife's motion to reconsider.

Affirmed.

BY THE COURT:

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Denise R. Johnson, Associate Justice

_____
Marilyn S. Skoglund, Associate Justice

_____
Paul R. Reiber, Associate Justice