

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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SUSAN I. VINEYARD,

Plaintiff/Counter-Defendant/Appellee,

v

LYNN T. VINEYARD,

Defendant/Counter-Plaintiff/Appellant.

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UNPUBLISHED

January 21, 1997

No. 179348

Macomb Circuit Court

LC No. 92-002934

Before: Hoekstra, P.J., and Marilyn Kelly and Joseph B. Sullivan,\* JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's judgment in this case involving contract interpretation and the disposition of jointly-owned personal assets. We affirm.

On appeal, defendant argues that the contract, which purported to establish the parties' claims to jointly-held real property, contained ambiguities not recognized by the trial court, that the court misinterpreted the intention of the parties on signing the contract, and that the court did not resolve issues not contemplated by the contract in a fair and equitable manner.

The parties divorced in 1978, but continued to live together and acquire real and personal property as joint tenants. After the couple separated in January 1991, plaintiff left their home, taking with her numerous items of jointly-owned personal property. On June 17, 1991, the parties signed a property settlement agreement, which purported to settle the parties' rights to four pieces of jointly-owned real property. Plaintiff then filed suit, alleging that the agreement was not being honored. Defendant filed a counter-complaint alleging various claims, including a claim that plaintiff had converted their personal property. A bench trial was eventually held, and defendant now raises four issues on appeal.

Defendant first contends that the trial court erred in determining that the language of paragraph five of the property settlement agreement that dealt with the division of the proceeds from the

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\* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Breezeway property was not ambiguous. Specifically, defendant contends that the language of the contract contemplates a fair division of the proceeds of the sale of a condominium and that a fair division would be one-half the difference between the gross sale proceeds and the existing mortgage on the property. The trial court, on the other hand, found no ambiguity and held that the agreement clearly states a formula by which defendant will receive one-half the difference between an identified sum and the current mortgage balance. Where contractual language is clear, its construction is a question of law which we review de novo. *Pakideh v Franklin Commercial Mortgage Group, Inc*, 213 Mich App 636, 640; 540 NW2d 777 (1995). Here, after a careful review of the contract language, we find that the trial court's determination that the language in paragraph five of the parties' property settlement agreement is unambiguous and clearly states terms for the resolution of this issue was proper.

With regard to defendant's remaining claims, defendant argues that several of the trial court's dispositive rulings regarding the parties' property were not "fair and equitable" pursuant to *Sparks v Sparks*, 440 Mich 141; 485 NW2d 893 (1992). Defendant cites no authority for the proposition that the equitable standard announced in *Sparks, supra*, for the division of property is properly applied to the division of real property accumulated by individuals without the benefit of marriage who enter into a settlement agreement covering the real property, and we decline to apply such a standard to the facts of this case. We have reviewed the trial court's findings concerning the parties' real property under traditional contract theories and find no clear error. MCR 2.613(C). Furthermore, even assuming the fair and equitable standard is applicable to the division of the parties' personal property, we find nothing inequitable in the trial court's ruling in this regard.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Joseph B. Sullivan

I concur in result only.

/s/ Marilyn Kelly