

STATE OF MICHIGAN
COURT OF APPEALS

SHAWN M. BRIDGES-RADY,

Plaintiff-Appellee,

v

TONY C. RADY,

Defendant-Appellant.

UNPUBLISHED

February 8, 2011

No. 296042

Lenawee Circuit Court

LC No. 09-033586-DM

Before: OWENS, P.J., and MARKEY and METER, JJ.

PER CURIAM.

Defendant appeals as of right from the parties' divorce judgment insofar as it determined the equity in one piece of marital real property for purposes of dividing the marital estate. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Three pieces of real property were subject to division: the marital home, a house built on speculation, and a lot with a pole barn from which defendant operated his house-building business. Dividing those properties required calculating the parties' equity in each. At issue is that calculation in connection with the speculation house.

The trial court received evidence that the speculation house was worth \$172,000, subject to a principal mortgage balance of \$104,963, and what is variously described as a second mortgage and a construction lien held by a building materials supplier important to defendant's business, in the amount of \$41,665. The court calculated the equity in that property by subtracting the \$104,963 mortgage obligation from the assessed value of \$172,000, and thus arrived at equity in the amount of \$67,037. The crux of this appeal is defendant's argument that the trial court erred in effectively attributing the \$41,665 lien obligation entirely to him, instead of to both parties by way of reducing the equity calculation by that amount.

In reviewing divorce judgments, "[t]he appellate court must first review the trial court's findings of fact under the clearly erroneous standard. If the findings of fact are upheld, the appellate court must decide whether the dispositive ruling was fair and equitable in light of those facts. . . . the dispositional ruling . . . should be affirmed unless the appellate court is left with the firm conviction that the division was inequitable." *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992).

Defendant framed his question presented to include the assertion that the trial court refused to acknowledge the lien on the speculation house, and similarly argues as if the trial court simply disregarded plaintiff's assent to sharing in responsibility for it. But those characterizations are not apt. At trial, plaintiff openly agreed that, a week before trial, she had "voluntarily waived 21,000 or so or 20,000 or so of [her] equity in [the speculation] home to satisfy [defendant's supplier]." She further testified that with the divorce she would have no reason to deal with that supplier, but that she voluntarily relinquished some of her marital equity in the speculation house in order to improve defendant's prospects of a continued good relationship with that supplier. Plaintiff asked the court to bear those developments in mind, and thus to adjust the awards of real property accordingly.

Plaintiff thus plainly admitted giving up some of her equity in the speculation house for defendant's benefit, and asked the court to take that into account in dividing the marital estate. Plaintiff was not denying her responsibility for the lien in question, but instead suggested to the court that fairness demanded recognition by way of dividing the real property in a way that compensated her for her unnecessary assumption of that responsibility.

The trial court agreed with plaintiff's reasoning, having reminded defendant that plaintiff "voluntarily released her \$20,800 she didn't have to do," and announced that it did "recognize a voluntary release of 20 some thousand dollars in equity there." The court neither disregarded, nor otherwise failed to acknowledge, plaintiff's responsibility for the lien in question, but in fact gave the matter careful consideration. The question, then, is whether that recognition, and resultant property division taking it into account, comported with the court's obligation to arrive at a fair and equitable division of the marital property. See *Sparks*, 440 Mich at 151-152. We conclude that it did.

Defendant emphasizes that plaintiff technically accepted equal responsibility for the subject lien, but does not dispute that the lien came about for the benefit of his relationship with a key supplier while offering no benefit to plaintiff. In light of these facts, a harsh result would have come about had the trial court reduced plaintiff's equity interest in the speculation house to reflect that obligation. The court's decision instead to divide the real property such that defendant alone effectively bore responsibility for that obligation was fair and equitable.¹

¹ Defendant takes issue with how the trial court valued and distributed other parts of the marital estate, but those additional arguments do not relate directly to the single question presented for this appeal, and thus we decline to address those arguments. See MCR 7.212(C)(7); *Meagher v McNeely & Lincoln, Inc*, 212 Mich App 154, 156; 536 NW2d 851 (1995) (this Court is not obliged to entertain arguments that are not germane to the issues set forth in the statement of questions presented).

Affirmed.

/s/ Donald S. Owens

/s/ Jane E. Markey

/s/ Patrick M. Meter