

IN THE COURT OF APPEALS OF TENNESSEE
EASTERN SECTION

FILED

May 23, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

RONALD W. TRUDEAU,) C/ A NO. 03A01-9512-CV-00342
)
Defendant - Appellant,) JEFFERSON LAW
)
v.) HON. CHESTER MAHOOD,
) JUDGE
ARLEEN KELLY TRUDEAU,)
)
Plaintiff - Appellee.) AFFIRMED AND
) REMANDED

MARTHA MEARES, Maryville, for Plaintiff - Appellee.

REBECCA D. SLONE, STRAND AND GODDARD, Dandridge, for
Defendant - Appellant.

OPINION

Franks. J.

¹ The Court of Appeals' Rules provide:

RULE 10. AFFIRMANCE WITHOUT OPINION

(a) The Court, with the concurrence of all judges participating in the case, may affirm the action of the trial court by order without rendering a formal opinion when an opinion would have no precedential value and one or more of the following circumstances exist and are dispositive of the appeal:

- (1) the Court concurs in the facts as found or as found by necessary implication of the trial court.
- (2) there is material evidence to support the verdict of the jury.
- (3) no reversible error of law appears.

Such cases may be affirmed as follows: "Affirmed in accordance with Court of Appeals Rule 10(a)."

The parties to this divorce action were married on May 27, 1989 and this action was filed on October 15, 1993. The Trial Judge granted the wife the divorce and awarded her \$1,000.00 per month as rehabilitative alimony for a period of twelve months, along with a judgment for temporary alimony then in arrears. Each of the parties was awarded the property they had in their possession and the wife was awarded \$125,000.00 to be paid by the husband as her "division of marital property". Additionally, the judgment provided for attorney's fees for the wife's attorney in the amount of \$13,200.00.

The husband has appealed, insisting that due to the relatively short marriage, the Trial Court did not properly divide the marital property and debt, and erred in awarding rehabilitative alimony and attorney's fees.

The husband filed a motion asking the Court to make findings of fact and conclusions of law.

In the husband's testimony, a substantial asset of the husband was his ownership of Kraft General Foods retirement and thrift plans, which interest was valued as of 1991 at \$390,153.00. The Trial Judge, responding to the motion for findings of fact, ordered that a statement of the valuation of "the defendant's pension, retirement thrift plans and accounts as of May 27, 1989," be furnished to the Court, as well as an evaluation of the plans and accounts as of March 16, 1995, the date of trial. Also the Court ordered that the husband provide an accurate fair market value and records of the Stratton Mountain condominium as of the date of the

parties' marriage, and a fair market value of the condominium as of the date of trial. We cannot determine from the record that the husband complied with the Court's order by furnishing this information, but final judgment was entered.²

Under T. C. A. §36-4-121, the Trial Court is given wide discretion in dividing marital property. *See Fisher v. Fisher*, 648 S.W2d 244 (Tenn. 1983). Upon consideration of the record, the briefs and argument of counsel, we concur in the facts as found or as found by necessary implication by the Trial Court, and no reversible error of law appearing we affirm the judgment of the Trial Court pursuant to Rule 10(a), Court of Appeals.

We affirm the judgment of the Trial Court, overrule the motion to consider post-judgment facts, and remand with costs of the appeal assessed to the appellant.

Herschel P. Franks, J.

CONCUR:

Don T. McMirray, J.

²Rule 36(a), T. R. A. P. provides in pertinent part ? . . . Nothing in this rule shall be construed as requiring relief be granted to a party responsible for an error or who failed to take whatever action was reasonably available to prevent or nullify the harmful effect of an error.?

Charles D. Susano, Jr., J.