

SUPREME COURT OF THE STATE OF MONTANA

Guill v. Guill

2013 MT 262N (2013) · No. DA 12-0772 · Decided September 10, 2013

SUMMARY

The Montana Supreme Court affirmed judgments awarding real property to Candace Kathleen Guill to satisfy her share of the marital estate and a separate judgment for lost personal property. The court held that the District Court did not abuse its discretion in enforcing the dissolution decree and related judgment. The opinion is a noncitable memorandum opinion under the Montana Supreme Court Internal Operating Rules.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Brian Morris; Brian Morris; Mike McGrath; Michael E. Wheat; Patricia Cotter; Jim Rice
JURISDICTION	Montana
DECIDED	September 10, 2013
DOCKET	DA 12-0772
DISPOSITION	affirmed
PROCEDURAL POSTURE	Douglas Guill appealed orders and judgments of the Nineteenth Judicial District Court awarding Candace Guill personal property and real property to satisfy obligations arising from the parties' dissolution decree and a later judgment.
STANDARD OF REVIEW	The court reviewed the distribution of the marital estate and the evaluation of the distributions for abuse of discretion.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; expressly noncitable
PARTIES	Douglas James Guill v. Candace Kathleen Guill

TOPICS

- family law procedure
- dissolution of marriage
- equitable distribution
- appellate procedure
- remedies

PRACTICE AREAS

- family law
- appellate procedure
- real estate
- remedies

QUESTIONS PRESENTED

1. Whether the District Court lacked jurisdiction to order the return or replacement of personal property removed from marital real property because doing so improperly modified the dissolution decree.
2. Whether the District Court lacked jurisdiction to order transfer of additional Clark Fork, Idaho real property to satisfy the \$104,552 judgment for lost personal property.

HOLDINGS

1. The District Court did not abuse its discretion or exceed its jurisdiction by awarding real property to Candace to satisfy the terms of the 2007 dissolution decree and the separate October 5, 2012 judgment.

KEY QUOTATIONS

“this case is decided by memorandum opinion and shall not be cited and does not serve as precedent.” (¶ 1)

“It is manifest on the face of the briefs and the record before us that the District Court did not abuse discretion when it awarded real property to Candace to satisfy the terms of the 2007 decree of dissolution and the separate judgment of October 5, 2012.” (¶ 8)

FACTUAL BACKGROUND

The parties divorced in 2007, and the District Court awarded Candace \$564,900 from the marital estate. The decree required Douglas to pay that amount or transfer specified real property to Candace for sale, with successive property transfers if the sale proceeds were insufficient. Douglas's agent removed fixtures and personal property from the 97 Golden Pond Drive property, and Douglas and the agent failed to return the property or pay replacement costs, resulting in a \$104,552 judgment. Because the sale proceeds were insufficient and property connected with the decree had been transferred into the agent's name, the District Court ordered transfers of additional real property to satisfy the judgments.

PROCEDURAL HISTORY

The parties divorced in 2007, and the District Court awarded Candace \$564,900 as her share of the marital estate, secured by transfers of specified real property if Douglas failed to pay. After Douglas and his agent removed personal property from one of the properties and failed to return it or pay replacement costs, the District Court entered a \$104,552 judgment. The court later joined Rick Christensen and ordered transfer of Idaho real property to satisfy both the dissolution judgment and the personal-property judgment. Douglas appealed, arguing that the District Court lacked jurisdiction because it had improperly modified the dissolution decree. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Guill v. Guill*, 2008 MT 279N, 346 Mont. 546, 210 P.3d 701

- Bock v. Smith, 2005 MT 40, ¶ 14, 326 Mont. 123, 107 P.3d 488

OPINION

PER CURIAM.

September 10 2013 DA 12-0772 IN THE SUPREME COURT OF THE STATE OF MONTANA
2013 MT 262N DOUGLAS JAMES GUILL, Petitioner and Appellant, v. CANDACE
KATHLEEN GUILL, Respondent and Appellee. APPEAL FROM: District Court of the
Nineteenth Judicial District, In and For the County of Lincoln, Cause No. DR 06-101 Honorable
James B. Wheelis, Presiding Judge COUNSEL OF RECORD: For Appellant: Scott G. Hilderman,
Law Offices of Scott G. Hilderman, P.C.; Kalispell, Montana For Appellee: Amy S. Rubin, Rubin
and Ries Law Offices, PLLC; Missoula, Montana Submitted on Briefs: August 21, 2013 Decided:
September 10, 2013 Filed: _____ Clerk Justice
Brian Morris delivered the Opinion of the Court. ¶1 Pursuant to Section I, Paragraph 3(d),
Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion
and shall not be cited and does not serve as precedent.

Its case title, cause number, and disposition shall be included in this Court's quarterly list of
noncitable cases published in the Pacific Reporter and Montana Reports. ¶2 Appellant Douglas
James Guill (Douglas) appeals the orders of the Nineteenth Judicial District Court, Lincoln
County, that entered judgments in favor of Douglas's former wife, Candace Kathleen Guill
(Candace).

We affirm. ¶3 The parties divorced in 2007. The District Court awarded Candace \$564,900 for her
share of the parties' marital estate. The court directed Douglas to pay this amount to Candace
within sixty days. Douglas's failure to pay within the sixty days would require him to deed real
property located at 97 Golden Pond Drive, Heron, Montana, to Candace. Candace was to sell the
property and receive the \$564,900 from the proceeds.

Douglas would receive the balance if any. The court further directed that if the 97 Golden Pond
Drive property failed to generate the \$564,900, Douglas was required to deed to Candace the
property located at 131 Lower Mosquito Creek in Clark Fork, Idaho for the same process to be
followed, until Candace had received her share of the marital estate. This Court affirmed.

Guill v. Guill, 2008 MT 279N, 346 Mont. 546, 210 P.3d 701. ¶4 Four years later Douglas moved
the court to award certain items of property to him, including fixtures, appliances, furnishings,
building materials, and tools that Douglas, through his agent, Rick Christensen (Christensen), had
removed from the real property at 97 2 Golden Pond Drive.

The District Court determined instead that the contents of the house and the fixtures belonged to
Candace. ¶5 Douglas and Christensen failed to comply with the District Court's order to return the

personal property or pay replacement costs. Candace sought a judgment against Douglas and Christensen in the amount of \$104,552 to compensate for the personal property.

The District Court entered this judgment on October 5, 2012. ¶6 The sale proceeds from Candace's earlier sale of the 97 Golden Pond Drive property had not satisfied Candace's share of the marital estate. Candace sought to join Christensen as a necessary party to the dissolution proceeding after Christensen, acting as Douglas's power of attorney, had transferred the Lower Mosquito Creek Property in Idaho into his own name by signing quit claim deeds in April 2012 as both the grantor and grantee.

The District Court agreed. The District Court eventually granted a judgment to Candace on November 15, 2012, that ordered the transfer of the Mosquito Creek Property to her to satisfy the terms of the decree of dissolution.

The court also granted a judgment to Candace for the transfer of other real property contained in the marital estate, including additional lots in Clark Fork, Idaho, to satisfy the judgment entered on October 5, 2012, of \$104,552, for the lost personal property. Douglas appeals. ¶7 Douglas argues on appeal that the District Court lacked jurisdiction to order the return of the 97 Golden Pond Drive personal property because the District Court improperly had modified the dissolution decree.

Douglas contends for the same reason that the District Court lacked jurisdiction to order the transfer of the other real property in Clark Fork, Idaho to satisfy the \$104,552 judgment that Candace obtained against Douglas and Christensen. 3 ¶8 We review for abuse of discretion of the distribution of a marital estate and the evaluation of their distributions.

Bock v. Smith, 2005 MT 40, ¶ 14, 326 Mont. 123, 107 P.3d 488. We have determined to decide this case pursuant to Section I, Paragraph 3(d), of our 1996 Internal Operating Rules, as amended in 2006, that provides for memorandum opinions. It is manifest on the face of the briefs and the record before us that the District Court did not abuse discretion when it awarded real property to Candace to satisfy the terms of the 2007 decree of dissolution and the separate judgment of October 5, 2012.

We will tolerate no further efforts by Douglas and Christensen to delay Candace's receipt of her fair share of the marital estate. ¶9 Affirmed. /S/ BRIAN MORRIS We Concur: /S/ MIKE McGRATH /S/ MICHAEL E WHEAT /S/ PATRICIA COTTER /S/ JIM RICE 4