

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PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; expressly noncitable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

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