

SUPREME COURT OF VERMONT

Juster v. Juster

182 Vt. 622 (2007) · Decided October 10, 2007

SUMMARY

The Vermont Supreme Court affirmed the denial of a defendant’s motion under V.R.C.P. 60(b)(1), (2), and (6) to set aside a divorce judgment based on a stipulation. The court held that the defendant’s failure to scrutinize asset valuations prepared by his accountant was a voluntarily assumed tactical decision, not grounds for relief based on mistake, newly discovered evidence, or another reason justifying relief.

CASE DETAILS

COURT	Supreme Court of Vermont
JURISDICTION	Vermont
DECIDED	October 10, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the denial of his V.R.C.P. 60(b)(1), (2), and (6) motion seeking relief from a final divorce order and decree entered pursuant to a voluntary stipulation.
STANDARD OF REVIEW	Abuse of discretion.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion
PARTIES	Defendant v. Plaintiff

TOPICS

- family law procedure
- divorce
- civil procedure
- appellate procedure
- remedies

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the defendant was entitled to relief from the divorce judgment under V.R.C.P. 60(b)(1) based on alleged errors in asset valuations that he could have discovered before voluntarily entering the stipulation.

2. Whether the alleged valuation errors constituted newly discovered evidence warranting relief under V.R.C.P. 60(b)(2).
3. Whether relief was available under V.R.C.P. 60(b)(6) when the asserted grounds were encompassed by Rule 60(b)(1) and (2).

HOLDINGS

1. A party is not entitled to relief under V.R.C.P. 60(b)(1) for errors resulting from the party's voluntary tactical decision to accept available information without scrutiny and enter into a stipulation.
2. Evidence available to a party before judgment, but not discovered because the party failed to exercise due diligence, does not qualify as newly discovered evidence under V.R.C.P. 60(b)(2).
3. Relief under V.R.C.P. 60(b)(6) is unavailable when the asserted grounds are encompassed within one of the preceding Rule 60(b) grounds.

KEY QUOTATIONS

“Rule 60(b) “does not operate to protect a party from freely made tactical decisions which in retrospect may seem ill advised”” (623)

“Relief under V.R.C.R 60(b)(6) is available only when a ground justifying relief is not encompassed within any of the first five classes of the rule.” (623)

FACTUAL BACKGROUND

The parties entered into a voluntary divorce stipulation dividing their property by percentages based on asset values listed in a spreadsheet. Defendant hired an accountant and accepted the spreadsheet figures without scrutinizing them, although the figures were available to him before he agreed to the stipulation. After discovering alleged valuation errors totaling approximately \$500,000, defendant sought to set aside or modify the divorce judgment under V.R.C.P. 60(b).

PROCEDURAL HISTORY

The trial court entered a final order and decree of divorce based on the parties' stipulation on May 16, 2005. Defendant moved for relief from judgment on May 2, 2006, arguing that erroneous asset valuations in a spreadsheet caused an approximately \$500,000 error in the property distribution. The trial court denied relief under each asserted subsection of Rule 60(b), and the Supreme Court of Vermont affirmed.

DISPOSITION

affirmed

CASES CITED

- Sandgate Sch. Dist. v. Cate, 2005 VT 88, ¶ 6, 178 Vt. 625, 883 A.2d 774 (mem.)
- Wild v. Brooks, 2004 VT 74, ¶ 20, 177 Vt. 171, 862 A.2d 225

- Stalb v. Stalb, 168 Vt. 235, 248, 719 A.2d 421, 429-30 (1998)
- Alexander v. Dupuis, 140 Vt. 122, 124, 435 A.2d 693, 694 (1981)

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