

SUPREME COURT OF MONTANA

In re Marriage of Foster

2004 MT 326, 324 Mont. 114 (2004) · No. No. 04-101 · Decided November 22, 2004

SUMMARY

The Montana Supreme Court reviewed a dissolution judgment awarding Joe Foster \$47,400 based on an equal division of the value of a home that Lillian Foster had acquired before the marriage and later transferred to her children. The court held that Joe was entitled only to an equitable share of appreciation or preservation attributable to his efforts, not half of the premarital property, and remanded for further factual findings. The court also held that the district court lacked jurisdiction to impose a constructive trust on property owned by nonparty children.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice W. William Leaphart; W. William Leaphart; Karla M. Gray; James C. Nelson; Patricia O. Cotter; Jim Rice
JURISDICTION	Montana
DECIDED	November 22, 2004
DOCKET	No. 04-101
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Lillian W. LeJeune Foster appealed from a dissolution judgment distributing marital property and imposing a constructive trust on a home owned by her nonparty children.
STANDARD OF REVIEW	The Supreme Court reviewed factual findings for clear error and the district court's application of law for correctness. Findings were not clearly erroneous unless unsupported by substantial evidence, based on a misapprehension of the evidence, or shown by examination of the record to be mistaken; otherwise, the property distribution would not be disturbed absent an abuse of discretion.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; binding precedent in Montana.
PARTIES	Lillian W. LeJeune Foster v. Joe Foster

TOPICS

equitable distribution

dissolution of marriage

constructive eviction

appellate procedure

standard of review

PRACTICE AREAS

family law

real estate

trusts

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court erred by awarding Joe Foster one-half of the value of Lillian's preacquired Pony home as marital property.
2. Whether the district court had jurisdiction to impose a constructive trust on the home owned by nonparty Gregory and Sharon Muir.

HOLDINGS

1. A nonacquiring spouse is entitled only to an equitable share of the appreciated or preserved value of preacquired property attributable to that spouse's contributions; the district court abused its discretion by awarding Joe one-half of the property's total value, including its premarital value.
2. Lillian's undisclosed transfers of interests in the Pony home to her children did not limit Joe's claim to appreciation attributable to his marital contributions; Joe could claim appreciation from the 1988 transfers through dissolution.
3. A district court lacks jurisdiction to impose a constructive trust or lien on property owned by persons who were not parties to the action.

KEY QUOTATIONS

“regardless of who holds title, preacquired or gifted property need not be included in the marital estate unless the nonacquiring spouse contributed to its preservation or appreciation.” (§ 11)

“Jurisdiction over the person upon whom the trust is imposed is pivotal, but all potential beneficiaries need not be parties.” (§ 19)

FACTUAL BACKGROUND

Lillian Foster inherited the Pony home before marrying Joe in 1979 and moved there with him in 1981. During the marriage, Joe provided financial support, performed maintenance and improvement work, and cared for Lillian as her health deteriorated, while Lillian paid taxes and made improvements. Without Joe's knowledge, Lillian transferred interests in the home to her children in 1988 and 1998, retaining a life estate, and the children were not parties to the dissolution action.

PROCEDURAL HISTORY

The Montana District Court awarded Joe Foster \$47,400 as his share of the Pony, Montana, home and imposed a constructive trust on that property as security for the judgment. Lillian appealed. The Montana Supreme Court

reversed the judgment and remanded for a determination of Joe's equitable share of the property's appreciation attributable to his contributions and for further proceedings consistent with the opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must determine the value of the Pony home when the parties married, identify the portion of the property's postmarital appreciation or preservation attributable to Joe's efforts rather than market factors, determine Joe's equitable share, and conduct further proceedings consistent with the opinion. The children's ownership rights remain unaffected, and the constructive trust on their property cannot stand absent jurisdiction over them as parties.

CASES CITED

- In re Marriage of Herrera, 2004 MT 40, ¶ 18, 320 Mont. 71, 85 P.3d 781
- In re Marriage of Foreman, 1999 MT 89, ¶ 14, 294 Mont. 181, 979 P.2d 193
- In re Marriage of Deist, 2003 MT 263, ¶ 14, 317 Mont. 427, 77 P.3d 525
- In re Marriage of Griffin, 275 Mont. 37, 43, 909 P.2d 707, 710-11 (1996)
- In re Marriage of Engen, 1998 MT 153, ¶ 29, 289 Mont. 299, 961 P.2d 738
- In re Marriage of Steinbeisser, 2002 MT 309, ¶ 47, 313 Mont. 74, 60 P.3d 441
- Baltrusch v. Baltrusch, 2003 MT 357, ¶ 62, 319 Mont. 23, 83 P.3d 256
- Warnack v. Coneen Family Trust, 266 Mont. 203, 207, 879 P.2d 715, 718 (1994)
- Howard v. Dalio, 249 Mont. 316, 319-20, 815 P.2d 1150, 1152 (1991)