

SUPREME COURT OF GEORGIA

Southerland v. Southerland, 278 Ga. 188

598 S.E.2d 442 (2004) · No. No. S04F0101 · Decided May 24, 2004

SUMMARY

The Supreme Court of Georgia held that evidence supported the trial court’s classification of gifts to the wife and property acquired with those gifts as her non-marital property. The court remanded for the trial court to make a required finding regarding the wife’s income and reconsider the child-support award, while affirming the alimony award and the property classifications.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice
JURISDICTION	Georgia
DECIDED	May 24, 2004
DOCKET	No. S04F0101
DISPOSITION	remanded
PROCEDURAL POSTURE	Husband took a discretionary appeal from a divorce decree, challenging the classification of certain property as Wife's non-marital property and the awards of child support and alimony.
STANDARD OF REVIEW	Findings concerning whether property is marital or non-marital are reviewed under the any-evidence rule and must be upheld if supported by any evidence.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Charles Southerland (Husband) v. Patricia Southerland (Wife)

TOPICS

- divorce
- equitable distribution
- child support
- alimony
- appellate procedure

PRACTICE AREAS

- family law
- divorce
- equitable distribution
- child support
- alimony

QUESTIONS PRESENTED

1. Whether the trial court properly classified family gifts, property purchased with those gifts or their proceeds, and the marital residence as Wife's non-marital property.
2. Whether the child-support award was legally deficient because the divorce decree did not include a written finding of Wife's gross income as required by OCGA § 19-6-15(a).
3. Whether the alimony award was improper because the decree did not include findings concerning Wife's income and financial resources.

HOLDINGS

1. The trial court did not err in finding that the family gifts were made solely to Wife and that the commercial properties and marital residence acquired with the gifted funds or their proceeds were Wife's non-marital property.
2. A divorce decree awarding child support must include a written finding of the gross income of both the father and the mother, and the decree was deficient because it omitted Wife's income.
3. The omission of a written finding concerning Wife's income did not require reversal of the alimony award because no statute required such findings in the decree and the record did not show that the trial court failed to consider Wife's income and financial resources.

KEY QUOTATIONS

"The standard by which findings of fact are reviewed is the "any evidence" rule, under which a finding by the trial court supported by any evidence must be upheld." (278 Ga. at 188, 598 S.E.2d at 443)

"OCGA § 19-6-15(a) requires the decree "include a written finding of the gross income of the father and the mother...."" (278 Ga. at 189, 598 S.E.2d at 444)

FACTUAL BACKGROUND

During the parties' 23-year marriage, Wife received cash gifts from members of her family. Husband testified that the gifts were made to the couple, while Wife and other witnesses testified that the gifts were made solely to Wife. Commercial properties and the marital residence were acquired or funded with gifted funds or proceeds from property purchased with those funds, and the record did not establish the value of Husband's contributions or any investment of marital funds. The divorce decree included Husband's income but not Wife's income, despite awards of child support and alimony.

PROCEDURAL HISTORY

The trial court entered a decree dissolving the parties' 23-year marriage, classified certain gifted funds and property derived from them as Wife's non-marital property, and awarded child support and alimony. The Supreme Court of Georgia affirmed the property classification and the alimony award, but remanded for a finding of Wife's gross income and reconsideration of child support.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court must make a finding of Wife's income, reconsider the child-support award based on that finding, and amend the divorce decree accordingly. The property classification and alimony award were affirmed.

CASES CITED

- Payson v. Payson, 274 Ga. 231(1), 552 S.E.2d 839 (2001)
- Westmoreland v. Westmoreland, 243 Ga. 77, 79, 252 S.E.2d 496 (1979)
- Barber v. Barber, 257 Ga. 488, 489(3), 360 S.E.2d 574 (1987)
- Snowden v. Alexander-Snowden, 277 Ga. 153, 154, 587 S.E.2d 54 (2003)