

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Maria Martinez v. Mario Antonio Perez Batres

No. 03-24-00388-CV · No. 03-24-00388-CV · Decided May 22, 2026

SUMMARY

The Texas Court of Appeals, Third District, reviewed Maria Martinez’s restricted appeal from a default divorce decree and related conservatorship and child-support orders. The court held that the evidence was insufficient to support a just-and-right division of the community estate, particularly regarding the children’s housing and the valuation of property in Mexico. It remanded the entire community estate for a new property division and affirmed the remainder of the judgment.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Chief Justice Byrne; Justice Kelly; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District, Austin
DECIDED	May 22, 2026
DOCKET	03-24-00388-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Restricted appeal from a default final decree of divorce and order for conservatorship and child support; the appellant also attempted to pursue interlocutory appeals from untimely post-judgment motions.
STANDARD OF REVIEW	A restricted appeal permits review of error apparent on the face of the record. The sufficiency of the evidence supporting a trial court's discretionary property division is reviewed under a two-pronged abuse-of-discretion inquiry: whether the trial court had sufficient information on which to exercise its discretion and whether it erred in applying that discretion. The property division is reversed only for an abuse of discretion.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Maria Martinez v. Mario Antonio Perez Batres

TOPICS

- family law procedure
- divorce
- community property
- appellate procedure
- standard of review

PRACTICE AREAS

Family law

Appellate procedure

Evidence

QUESTIONS PRESENTED

1. Whether Martinez satisfied the jurisdictional and merits requirements for a restricted appeal.
2. Whether the evidence in the face of the record was sufficient to support the trial court's discretionary division of the community estate as just and right, particularly its award of the Kyle residence to Perez Batres and the Monclova residence to Martinez.
3. Whether reversible error affecting the property division required remand of the entire community estate for a new division.

HOLDINGS

1. Martinez satisfied the restricted-appeal requirements because she timely filed the appeal, was a party, did not participate in the hearing or timely file post-judgment motions extending the trial court's plenary power, and demonstrated error apparent on the face of the record.
2. The trial court abused its discretion in dividing the community estate because it lacked sufficient information to determine a just and right division, including competent evidence concerning where Martinez and the children would live and sufficient evidence of the value of the Monclova residence.
3. When reversible error materially affects the just-and-right division of property, the entire community estate must be remanded for a new division.

KEY QUOTATIONS

“Confining our review to the face of the record at the time that judgment was signed, we find the division of the marital estate lacked “due regard for the rights of each party and any children of the marriage.”” (p. 1)

“Because, on the face of the record, we find reversible error that materially affects the trial court’s “just and right” division of property, we remand the entire community estate for a new division of the property.” (p. 9)

FACTUAL BACKGROUND

Perez Batres sought a default divorce and a division of the marital estate, including an award to himself of the Kyle residence where Martinez and the parties' two children lived and an award to Martinez of a residence in Monclova, Coahuila, Mexico. At the default hearing, he presented exhibits concerning the marital assets and testified that Martinez could live with the children in a San Marcos residence in which she owned an interest, but the evidence did not establish that the residence could meet the children's housing needs. He also valued the Mexican residence at approximately \$30,000 through unsupported testimony and an untranslated deed.

PROCEDURAL HISTORY

Perez Batres filed a divorce petition, and Martinez was served but did not answer or appear. After a final hearing without notice to Martinez, the trial court entered a default final decree of divorce and orders concerning conservatorship, child support, and property division. Martinez filed a timely restricted appeal. The court of

appeals abated the case to obtain exhibits admitted at the default hearing, then affirmed the remainder of the judgment but reversed and remanded the community-estate division for a new property division.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand the entire community estate to the trial court for a new division of the property. The remainder of the judgment is affirmed.

CASES CITED

- Ex parte E.H., 602 S.W.3d 486, 495, 497 (Tex. 2020)
- Alexander v. Lynda's Boutique, 134 S.W.3d 845, 848-49 (Tex. 2004)
- Cox v. Cox, 298 S.W.3d 726, 732 n.2 (Tex. App.—Austin 2009, no pet.)
- In re Williams, 646 S.W.3d 542, 545 (Tex. 2022) (per curiam)
- Murff v. Murff, 615 S.W.2d 696, 698-99 (Tex. 1981)
- Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 (Tex. 1985)
- Jacobs v. Jacobs, 687 S.W.2d 731, 733 (Tex. 1985)
- Tiney v. Tiney, No. 14-25-00116-CV, 2026 WL 507652, at *2 (Tex. App.—Houston [14th Dist.] Feb. 24, 2026, no pet. h.) (mem. op.)
- Reid Rd. Mun. Util. Dist. No. 2 v. Speedy Stop Food Stores, Ltd., 337 S.W.3d 846, 852-53 (Tex. 2011)
- Natural Gas Pipeline Co. of Am. v. Justiss, 397 S.W.3d 150, 159 (Tex. 2012)

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