NEBRASKA SUPREME COURT

Eis v. Eis

310 Neb. 243 (2021) · No. No. S-20-515 · Decided October 1, 2021

SUMMARY

The Nebraska Supreme Court affirmed a marital dissolution judgment classifying two tracts of farmland and related farm-account funds as marital property because they had been commingled with marital assets. The court also upheld an increased equalization payment accounting for stored 2019 grain, concluding that the trial court appropriately used a flexible allocation and valued the grain as of trial rather than separation.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	October 1, 2021
DOCKET	No. S-20-515
DISPOSITION	affirmed
PROCEDURAL POSTURE	Donald appealed from a marital dissolution decree, its subsequent modification increasing Linda's equalization payment for stored grain, and the denial of his motion for new trial.
STANDARD OF REVIEW	In a marital dissolution action, the appellate court reviews the case de novo on the record to determine whether the trial court abused its discretion. The appellate court makes independent factual determinations and reaches its own independent conclusions; abuse of discretion exists when the trial court's reasons or rulings are clearly untenable, unfairly deprive a litigant of a substantial right, and deny just results.
PRECEDENTIAL VALUE	Published, precedential Nebraska Supreme Court opinion
PARTIES	Donald W. Eis v. Linda A. Eis

TOPICS

divorce equitable distribution family law procedure standard of review appellate procedure

PRACTICE AREAS

family law divorce equitable distribution appellate procedure

QUESTIONS PRESENTED

1. Whether the district court erred by classifying Tract 1, acquired by Donald before the marriage, as marital property.
2. Whether the district court equitably divided the marital estate by awarding the parties separate tracts and ordering Donald to make an equalization payment.
3. Whether Linda was entitled to a share of proceeds from grain harvested and stored after the parties' separation when the grain was generated in part by jointly owned marital land.
4. Whether the district court abused its discretion by using the date of trial rather than the date of separation to value the 2019 stored grain.

HOLDINGS

1. Tract 1 was properly classified as marital property because Donald failed to prove that the property and its appreciation remained separate and traceable; the evidence showed commingling with marital property, marital income, joint obligations, and marital contributions.
2. The district court did not err in equitably dividing the marital estate by awarding Tract 1 to Donald, Tract 2 to Linda, and ordering Donald to make an equalization payment.
3. Linda remained entitled to a share of the 2019 grain even though it was harvested, stored, or sold after separation because the grain was generated by land that was already part of the marital estate.
4. A single valuation date is not required for every asset in a marital estate, and the district court did not abuse its discretion by valuing the 2019 grain as of trial because the grain did not exist at the date of separation and its value was first established at trial.

KEY QUOTATIONS

> *"separate property becomes marital property by commingling if it is inextricably mixed with marital property or with the separate property of the other spouse."* (248)

> *"The date upon which a marital estate is valued should be rationally related to the property composing the marital estate."* (254)

FACTUAL BACKGROUND

Donald acquired Tract 1, approximately 120 acres, before marrying Linda, while the parties acquired Tract 2, approximately 74 acres, during their marriage. During the marriage, marital funds, joint wages, and commingled farm and other accounts were used in connection with mortgages and borrowing against Tract 1, and Linda used approximately $60,000 in nonmarital funds to renovate the marital home located on that tract. After the parties separated in March 2018, Donald continued farming the land, and 2019 grain was harvested and stored before trial. The district court classified Tract 1 and the farm-account funds as marital property and allocated 40 percent of the value of the 2019 stored grain to the marital estate, awarding Linda an additional $11,400 equalization payment.

PROCEDURAL HISTORY

The Richardson County District Court dissolved the parties' marriage and classified both tracts of land as marital property, awarded one tract to each spouse, and ordered Donald to make a $165,062.50 equalization payment. On Linda's motion to alter or amend, the court determined that 2019 grain in storage had not been accounted for and increased the equalization payment to $176,462.50. The court denied Donald's motion for new trial, and the Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Tierney v. Tierney, 309 Neb. 310, 959 N.W.2d 556 (2021)
- Brozek v. Brozek, 292 Neb. 681, 874 N.W.2d 17 (2016)
- Osantowski v. Osantowski, 298 Neb. 339, 904 N.W.2d 251 (2017)
- Kalkowski v. Kalkowski, 258 Neb. 1035, 607 N.W.2d 517 (2000)
- Davidson v. Davidson, 254 Neb. 656, 578 N.W.2d 848 (1998)
- Rohde v. Rohde, 303 Neb. 85, 927 N.W.2d 37 (2019)
- Chmelka v. Chmelka, 29 Neb. App. 265, 953 N.W.2d 288 (2020)