

SUPREME COURT OF THE STATE OF DELAWARE

Smart v. Smart

Smart · No. No. 433, 2014 · Decided April 6, 2015

SUMMARY

The Delaware Supreme Court reversed and remanded a Family Court order dividing marital property and awarding permanent alimony. The Court held that the Family Court failed to address the wife's pension and the husband's claims for credits relating to household expenses and marital debt discharged in bankruptcy. It also held that the alimony award was unsupported because the record did not establish that the wife's mental health issues prevented full-time employment.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Karen L. Valihura; Holland; Valihura; Vaughn
JURISDICTION	Delaware
DECIDED	April 6, 2015
DOCKET	No. 433, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Husband appealed the Family Court's ancillary order dividing marital property and awarding Wife permanent alimony after the parties' divorce.
STANDARD OF REVIEW	The Supreme Court reviews Family Court appeals as to law, facts, inferences, and deductions. It will not disturb factual findings unless clearly wrong and justice requires reversal; application of law is reviewed for abuse of discretion, and errors of law are reviewed de novo.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order; precedential status is not expressly stated in the opinion text.
PARTIES	Matthew E. Smart v. Nancy F. Smart

TOPICS

- alimony
- equitable distribution
- bankruptcy
- preservation of error
- appellate procedure

PRACTICE AREAS

family law

appellate procedure

bankruptcy

real estate

QUESTIONS PRESENTED

1. Whether the Family Court erred by failing to address Wife's State pension in its equitable division of marital assets.
2. Whether the Family Court erred by failing to address Husband's claims for credit for post-separation household payments and for the financial harm associated with discharging marital debt in bankruptcy.
3. Whether the Family Court improperly awarded alimony based on an unsupported finding that Wife's mental-health issues prevented full-time employment.
4. Whether Husband could obtain appellate consideration of his claims for a greater share of home-sale proceeds based on changed circumstances and alleged errors in calculating his take-home pay when those claims were not presented below.

HOLDINGS

1. The Family Court erred by failing to address and equitably divide Wife's State pension as part of the marital-property division.
2. The Family Court was required to address Husband's claims for credit for post-separation household payments and for the financial harm resulting from discharging marital debt in bankruptcy, although the court was not required to rule in Husband's favor.
3. An alimony award based on an unsupported finding that Wife's mental-health issues prevented full-time employment was reversible error.
4. The Supreme Court would not consider for the first time on appeal Husband's claims for more than 50% of the home-sale proceeds based on changed circumstances or his challenge to the calculation of his take-home pay.

KEY QUOTATIONS

“In remanding for further proceedings, we do not hold that the Family Court is required to rule in Husband’s favor on these claims, only that Husband fairly raised the issues and the Family Court should address them in its weighing process.” (at 10)

“An award of alimony may not be based on speculation or conjecture.” (at 11)

“Under the circumstances, we find the Family Court’s award of alimony, based on this unsupported finding of fact, to be reversible error.” (at 11)

FACTUAL BACKGROUND

The parties married in 1992, separated in 2011, and divorced in 2012, but continued living together in the marital home. Husband, the primary wage earner, paid the mortgage and household expenses and later consolidated and discharged approximately \$22,500 in marital credit-card debt in a bankruptcy proceeding filed solely in his

name. The Family Court divided the marital assets, awarded Wife one-half of Husband's pension and deferred compensation but failed to address Wife's pension and Husband's requested credits. It also awarded Wife \$1,055 per month in alimony based partly on unsupported mental-health-related limitations on her ability to work full time.

PROCEDURAL HISTORY

The Delaware Family Court entered an order on July 9, 2014, dividing the parties' marital property and awarding Wife \$1,055 per month in alimony for ten years. Husband appealed, arguing that the Family Court failed to address several property-division claims and based the alimony award on an unsupported finding that Wife could earn only \$9,000 annually. The Supreme Court reversed both judgments and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Family Court must conduct further proceedings consistent with the order, including addressing Wife's State pension, Husband's requests for credit for post-separation household payments and bankruptcy-related financial harm, and the alimony award in light of the evidentiary deficiency identified by the Supreme Court. Jurisdiction is not retained.

CASES CITED

- Delaware Elec. Cooperative v. Duphily, 703 A.2d 1202, 1207 (Del. 1997)
- Wife (J.F.V.) v. Husband (O.W.V., Jr.), 402 A.2d 1202, 1204 (Del. 1979)
- Forester v. Forester, 953 A.2d 175, 179 (Del. 2008)
- Gregg v. Gregg, 810 A.2d 474, 483 (Del. 2002)
- Olsen v. Olsen, 971 A.2d 170, 176 (Del. 2009)
- M.E.S. v. N.F.S., No. CS12-01045, at 5 (Del. Fam. Ct. July 9, 2014)

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