

SUPREME COURT OF ALASKA

Brandal v. Shangin

36 P.3d 1188 (Alaska 2001) · No. S-9695 · Decided February 27, 2002

SUMMARY

The Alaska Supreme Court reviewed property division and child-support issues arising from the divorce of Henry Brandal and Lorraine Shangin. The court affirmed classification of the right to use Chignik Lagoon land as marital property, the valuation method based on the original trailer cost, equal division of the marital portion of the Exxon Valdez settlement, and the requirement to apply fishing-permit sale proceeds toward property-division debts. It remanded for recalculation using simple rather than compound interest, a recapture analysis of the \$6,800 Alyeska payout, and findings concerning whether delaying child-support arrearage payments served the children's best interests.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Eastaugh, Justice; Fabe, Chief Justice; Matthews, Justice; Bryner, Justice
JURISDICTION	Alaska
DECIDED	February 27, 2002
DOCKET	S-9695
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a divorce judgment involving classification and valuation of marital property, division of Exxon Valdez settlement proceeds, treatment of an Alyeska permit payout, child-support arrearages, and enforcement of property-division obligations.
STANDARD OF REVIEW	The marital or nonmarital character of property is reviewed for abuse of discretion, although underlying legal determinations are reviewed de novo. Property-value determinations are factual findings reviewed for clear error. Equitable allocation of property is reviewed for abuse of discretion and reversed only if clearly unjust. Waived issues are not ordinarily reviewed.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Henry Brandal v. Lorraine Shangin

TOPICS

equitable distribution

child support

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

family law

appellate procedure

property division

child support

fishing permit and property remedies

QUESTIONS PRESENTED

1. Whether Henry's right to use the Chignik Lagoon land was a marital asset.
2. Whether the trial court properly valued that right using the original \$5,800 trailer cost.
3. Whether the trial court erred by using compound rather than simple interest in calculating the present value of the right to use the land.
4. Whether the marital portion of the Exxon Valdez settlement proceeds should have been divided equally.
5. Whether the \$6,800 Alyeska permit payout could be charged to Henry without a recapture analysis.
6. Whether the trial court could delay payment of Lorraine's child-support arrearages pending receipt of Exxon Valdez settlement funds without determining the children's best interests.
7. Whether the trial court could require Henry to use proceeds from a future sale of his fishing permit to satisfy property-division debts without creating an impermissible encumbrance on the permit.
8. Whether the trial court adequately applied the Merrill factors.

HOLDINGS

1. The right to use the Chignik Lagoon land was properly classified as a marital asset because it was acquired during the marriage with marital funds and the evidence supported an intent to treat the right as marital.
2. The trial court did not clearly err by valuing the right to use the land based on the \$5,800 cost of the trailer exchanged for that right.
3. It was plain error to use compound interest to calculate the present value of the asset without specific factual findings establishing that compound interest was necessary; the calculation had to be redone using simple interest.
4. The trial court properly divided the marital portion of the Exxon Valdez settlement proceeds equally because equal division is presumptively valid and Henry failed to show that equal division was clearly unjust.
5. The trial court erred by charging the \$6,800 payout to Henry without first conducting a recapture analysis; the assessment had to be vacated and the issue remanded.
6. The trial court had discretion to permit an offset or delay involving child-support arrearages if doing so was in the children's best interests, but it had to make the required best-interests determination on remand.

7. The trial court did not abuse its discretion by requiring Henry, if he sold his permit, to use the sale proceeds to satisfy his property-division debts to Lorraine, because the order required payment from proceeds and did not create an encumbrance on the permit itself.
8. The court declined to review Henry's challenge to the trial court's application of the Merrill factors because the issue was not preserved below or included in the points on appeal.

KEY QUOTATIONS

“But because we conclude that it was error to use compound rather than simple interest to calculate the present value of that asset, we remand for further calculations.” (36 P.3d at 1189-90)

“We hold that it was plain error to use compound interest here, absent a finding that compound interest was necessary to measure the asset's value accurately.” (36 P.3d at 1194)

“It was error to charge the settlement amount to Henry without first conducting a recapture analysis.” (36 P.3d at 1195)

“The limitations the trial court placed on the “lien” demonstrate that the court was effectively entering an order against Henry's person requiring him to turn over sale proceeds under pain of contempt, rather than creating some sort of a security interest in the permit itself.” (36 P.3d at 1196)

FACTUAL BACKGROUND

Henry Brandal and Lorraine Shangin married in 1979, had four children, and used marital funds to purchase a mobile home for Henry's grandmother in exchange for the couple's right to use land at Chignik Lagoon, where they built a house and lived during fishing seasons. Henry's separate interim fishing permit and the family's fishing-related assets were affected by the Exxon Valdez oil spill, after which the couple filed for bankruptcy and Henry anticipated receiving settlement proceeds. The parties separated in 1993, the children remained with Henry, and Lorraine accumulated child-support arrearages while Henry owed Lorraine amounts under the property division.

PROCEDURAL HISTORY

After the parties' divorce, the trial court classified Henry's right to use Chignik Lagoon land as marital property, divided the marital portion of the Exxon Valdez settlement equally, charged an Alyeska payout to Henry, ordered payment of Lorraine's child-support arrearages to be delayed until settlement funds were received, and required Henry to use proceeds from any sale of his fishing permit to satisfy property-division debts. Henry appealed. The Alaska Supreme Court affirmed several rulings but remanded for recalculation using simple interest, a recapture analysis of the Alyeska payout, and a best-interests determination concerning delay of child-support payment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Recalculate the interest component of the Chignik Lagoon land-use asset using simple interest unless specific factual findings support compound interest; conduct a recapture analysis of the \$6,800 Alyeska permit payout; and determine whether delaying payment or offsetting Lorraine's child-support arrearages against the marital-property distribution is in the children's best interests.

CASES CITED

- Wanberg v. Wanberg, 664 P.2d 568, 570 (Alaska 1983)
- Jones v. Jones, 835 P.2d 1173, 1175 (Alaska 1992)
- Doyle v. Doyle, 815 P.2d 366, 368 (Alaska 1991)
- Cox v. Cox, 882 P.2d 909, 913-14, 918 n. 5 (Alaska 1994)
- Lewis v. Lewis, 785 P.2d 550, 552 (Alaska 1990)
- Lantz v. Lantz, 845 P.2d 429, 431 n. 1 (Alaska 1993)
- Wanberg v. Wanberg, 664 P.2d 568, 570 (Alaska 1983)
- Coffland v. Coffland, 4 P.3d 317, 321-22 (Alaska 2000)
- Julsen v. Julsen, 741 P.2d 642, 648 n. 9 (Alaska 1987)
- Harrelson v. Harrelson, 932 P.2d 247, 251 (Alaska 1997)
- Zimin v. Zimin, 837 P.2d 118, 122 (Alaska 1992)
- Hartland v. Hartland, 777 P.2d 636, 640 (Alaska 1989)
- Alyeska Pipeline Serv. Co. v. Anderson, 669 P.2d 956, 956-57 (Alaska 1983)
- Estate of Gregory, 487 P.2d 59, 64 (Alaska 1971)
- Compton v. Chatanika Gold Camp Properties, 988 P.2d 598, 601 (Alaska 1999)
- Murray v. Feight, 741 P.2d 1148, 1156-57 (Alaska 1987)
- Hurn v. Hurn, 541 P.2d 360, 360 (Alaska 1975)
- Arndt v. Arndt, 777 P.2d 668, 670 (Alaska 1989)
- Houger v. Houger, 449 P.2d 766, 771 (Alaska 1969)
- Reid v. Williams, 964 P.2d 453, 456 (Alaska 1998)
- Brooks v. Brooks, 733 P.2d 1044, 1053 (Alaska 1987)
- Gallant v. Gallant, 882 P.2d 1252, 1255 n. 5 (Alaska 1994)
- Foster v. Foster, 883 P.2d 397, 400 (Alaska 1994)
- State, Dep't of Revenue, Child Support Enforcement Div. v. Pealatere, 996 P.2d 84, 87 (Alaska 2000)
- Park v. Park, 986 P.2d 205, 207-08 (Alaska 1999)
- Gunderson v. University of Alaska, 902 P.2d 323, 327 n. 5 (Alaska 1995)
- Moran v. Holman, 501 P.2d 769, 769-70 (Alaska 1972)