

2011 IL App (2d) 110296-U  
No. 2-11-0296  
Order filed December 23, 2011

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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<i>In re</i> MARRIAGE OF	)	Appeal from the Circuit Court
SUSAN E. LICHTER,	)	of Du Page County.
	)	
Petitioner-Appellant,	)	
	)	
and	)	No. 08-D-2225
	)	
GERALD M. LICHTER,	)	Honorable
	)	James J. Konetski,
Respondent-Appellee.	)	Judge, Presiding.

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JUSTICE SCHOSTOK delivered the judgment of the court.  
Justices Zenoff and Hudson concurred in the judgment.

**ORDER**

*Held:* The trial court did not err in (1) not awarding the petitioner permanent maintenance where the petitioner only requested temporary maintenance at trial; (2) setting the value of a marital asset at an amount identical to what the respondent had testified to where the respondent presented competent evidence as to the value of the asset and the petitioner did not; and (3) not ordering the respondent to pay certain debts that the petitioner had incurred where the petitioner failed to establish that she had actually incurred such debts or that the respondent was financially able to contribute to the payment of those debts.

¶ 1 The petitioner, Susan Lichter, appeals from the February 23, 2011, order of the circuit court of Du Page County dissolving her marriage to the respondent, Gerald Lichter. On appeal, Susan argues that the trial court erred in (1) not awarding her permanent maintenance; (2) its determination

of the value of the parties' 1929 Cadillac LaSalle; and (3) not ordering Gerald to contribute to the loans Susan incurred for the parties' daughter, Rhian, to attend college. We affirm.

¶2 On October 10, 2008, Susan filed a petition for dissolution of marriage. The petition alleged that the parties were married on May 6, 1984, and had two daughters: Rhian, born March 4, 1988, and Elizabeth, born February 10, 1990. At the time she filed her petition for dissolution, Susan was 48 and Gerald was 50. Gerald worked as a fireman for the Naperville fire department, earning approximately \$79,000 a year. Susan was employed as a teaching assistant, earning approximately \$14,000 a year.

¶3 On August 5 and 6, 2010, the trial court conducted a trial on Susan's petition. Following the trial, the trial court made the following determinations relevant to this appeal: (1) Susan would be awarded maintenance of \$2,000 per month, subject to review in 18 months; (2) the parties' 1929 Cadillac LaSalle had a value of \$20,000 and would be awarded to Gerald; and (3) Gerald was not obligated to assist Susan in repaying the loans that she had purportedly incurred in order to pay for some of Rhian's college expenses. After the trial court granted Gerald's motion to correct some mathematical errors in the judgment of dissolution and denied Susan's motion to reconsider, Susan filed a timely notice of appeal.

¶4 Susan's first contention on appeal is that the trial court erred in not awarding her permanent maintenance. However, Susan did not raise this argument before the trial court. Rather, she argued at the trial that she should be awarded temporary maintenance for 36 months. In her motion to reconsider, Susan argued that the trial court should have set review for the maintenance award at 36 months rather than 18 months.

¶5 In *In re Marriage of Melton*, 93 Ill. App. 3d 338, 340-41(1981), the reviewing court explained:

“The scope of judicial review is tempered by a number of procedural rules. Thus we find that a person cannot try his case on one theory in the trial court and on another theory on review. [Citations.] If a party makes an objection for one reason at trial, he cannot raise different reasons for his objection on appeal. [Citation.] In like manner, the failure of a party to object during the course of trial constitutes a waiver of the objection. [Citation.] A court of review will not entertain assignments of errors which the appellant bases on rulings which may be prejudicial or injurious to others but are not so to him. [Citations.] Finally, a party who has induced the trial court to make an error, or acquiesced in its making or requested that it be made, cannot be heard on appeal to assign that same manner as error. [Citation.]” *Id.*

Here, as Susan neither requested at the dissolution hearing nor in her posttrial motion that she be awarded permanent maintenance, we will not consider that argument for the first time on appeal. See *id.*

¶ 6 We also reject Susan’s argument that the trial court’s order of maintenance “subject to review” was improper because it did not set forth a clear statement of the standards and criteria that the trial court would consider in reviewing the award of maintenance. In denying Susan’s motion to reconsider, the trial court explained that Susan’s testimony showed that she really was not making an effort to find a new job because she was content with her current job that paid her \$14,000 a year. The trial court stated that if she wanted to stay in her current job, she should not be asking for maintenance. The trial court therefore explained that it was making the maintenance award reviewable after just 18 months so that there would be “some real consequences” if Susan did not “seek[] her own betterment as quickly as possible.” Based on the trial court’s comments, it is clear what Susan must do to extend her maintenance award—demonstrate real efforts to find a higher

paying position. We therefore decline Susan's invitation to remand the cause to the trial court so that it can further clarify what she must do in order to extend her maintenance award.

¶ 7 Susan's second contention on appeal is that the trial court erred in determining the value of the parties' 1929 Cadillac LaSalle. She argues that because neither party presented any expert testimony as to the value of the car, the trial court should have ordered that the vehicle be sold so that its true value could be determined.

¶ 8 In order to place a specific value on an item of marital property, there must be competent evidence of its value presented. *In re Marriage of Miller*, 112 Ill. App. 3d 203, 208 (1983). Generally, the valuation of assets in an action for dissolution of marriage is a question of fact, and the trial court's determination will not be disturbed absent an abuse of discretion. *In re Marriage of Schneider*, 214 Ill. 2d 152, 162 (2005). Where a party does not offer evidence of an asset's value, the party cannot complain as to the disposition of that asset by the court. *In re Marriage of Tyrrell*, 132 Ill. App. 3d 348, 350 (1985). Parties should not be allowed to benefit on review from their failure to introduce evidence at trial. *Id.*

¶ 9 Gerald testified that he had purchased the 1929 Cadillac LaSalle in 1997 for \$12,000. He was knowledgeable as to the value of antique cars as he had followed the market on older cars for over 35 years. A comparable 1929 Cadillac LaSalle in the area had recently been listed for \$20,000. A more desirable convertible version of the car had recently been listed for \$31,000. Gerald testified that, based upon his experience restoring antique vehicles and attending various car shows, he believed that the parties' car was worth \$20,000. Susan did not present any evidence as to the value of the car. She indicated in her comprehensive financial report that the car was worth between \$35,000 and \$50,000. In its judgment of dissolution, the trial court found that the car was worth \$20,000 and awarded it to Gerald.

¶ 10 Based on the limited evidence presented as to the value of the car, the trial court did not abuse its discretion in determining the value of the car was \$20,000. The trial court's finding was consistent with Gerald's testimony. Based on his familiarity with antique cars, Gerald was able to present competent testimony as to the value of the 1929 Cadillac LaSalle. In light of the competent evidence that Gerald presented, and because Susan presented none, we will not disturb the trial court's decision. See *Schneider*, 214 Ill. 2d at 162.

¶ 11 Susan next contends that the trial court erred in not ordering Gerald to contribute towards the payment of loans that she incurred to assist the parties' oldest daughter to attend college. At trial, Susan acknowledged that the parties did not have money to send their children to college. She testified that when the children were young, she had wanted to set up a college fund for them. However, no college fund had been set up because Gerald did not want to. He believed that the children "should learn the value of the dollar" and should pay for college themselves if they wanted to go. Susan testified that Rhian had gone to college and that she had incurred over \$24,000 in loans to assist her to do so. In closing arguments, Susan argued that Gerald should be required to pay a portion of the debts that Susan had incurred to assist Rhian in attending college.

¶ 12 In the judgment of dissolution, the trial court divided the parties' marital assets and liabilities. The trial court awarded Gerald assets worth approximately \$190,935 and Susan assets worth \$106,175. The trial court found that, based on this division of assets, Gerald received 64% of the assets and Susan 36% of the assets. As its intention was that each party receive an equal division of the marital assets, the trial court ordered that Gerald pay Susan \$92,975 to equalize the division. The trial court further ordered that each party be responsible for the outstanding debts in their names. This meant that Susan was responsible for \$61,855.37 in debts and Gerald was responsible for \$20,051 in debts.

¶ 13 In denying Susan’s request that Gerald be ordered to contribute toward the debts she incurred for the payment of Rhian’s educational expenses, the trial court explained:

“The Court respectfully declines to require either party to involuntarily contribute to any such expenses incurred to date. The Court is very sympathetic to [Susan’s] request for contribution. Certainly, [Susan] voluntarily elected to pay some of Rhian’s educational expenses; however, the Court is still of the opinion that the nature and extent of the marital estate, the amount of debt and the incomes of the parties preclude an order for involuntary contribution. The Court believes it would place the parties in greater financial peril.”

The trial court also ordered that contribution to the secondary educational expenses of Rhian and Elizabeth was reserved and would be governed by section 513 of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/513 (West 2010)).

¶ 14 Gerald subsequently filed a “motion for reconsideration and/or correct judgment.” Gerald argued that in setting the amount that he was to pay Susan in order to evenly divide the marital assets, the trial court had made certain mathematical errors. These errors included not dividing the difference in marital assets awarded to the parties (\$92,975) in half. Susan also filed a motion to reconsider. The trial court agreed with Gerald’s motion and reduced the amount that he was to pay to Susan to \$38,049. At the hearing, Susan requested that the trial court more evenly divide the parties’ marital debts. In its written order, the trial court denied Susan’s request. The trial court explained that there was little substantiation of indebtedness by either party other than that which was listed on their comprehensive financial statements.

¶ 15 Section 503 of the Act provides that a trial court is to divide the marital property in just proportions taking into account all relevant factors, including: the value of marital property, the economic circumstances of each spouse; the income of each spouse; and each spouse’s age, health

and employability. 750 ILCS 5/503(d) (West 2010). Just proportions does not mean strict equality, but only an equitable division based on the surrounding circumstances. *In re Marriage of Nelson*, 297 Ill. App. 3d 651, 658 (1998). The trial court's division of the parties' marital assets and liabilities will not be disturbed absent an abuse of discretion. *In re Marriage of Hobbs*, 363 Ill. App. 3d 696, 700 (2006).

¶ 16 We do not believe that the trial court abused its discretion in denying Susan's request that Gerald be ordered to pay a portion of the debts she had purportedly incurred to pay for some of Rhian's educational expenses. First, Susan failed to substantiate that she had actually incurred any debt for Rhian to attend college. Her attempts to prove that she had incurred such debts, which were based solely on her own comprehensive financial statements, were insufficient. See *In re Marriage of DeBow*, 236 Ill. App. 3d 1038, 1051 (1992) (trial court's failure to make any disposition concerning marital obligations allegedly incurred by spouse was not an abuse of discretion where spouse failed to introduce any receipts or bills in order to substantiate claimed obligations).

¶ 17 Further, even if Susan had substantiated the debts she had incurred for Rhian's educational expenses, the trial court did not err in refusing to order Gerald to contribute to those expenses. The trial court specifically found that the parties' economic circumstances did not allow either one of them to involuntarily contribute to their children's college expenses. We also note that Susan acknowledged that the parties did not have any money to help their children attend college. As such, Gerald's inability to contribute to Rhian's educational expenses was an appropriate basis under section 503 for the trial court to deny Susan's request for contribution.

¶ 18 In so ruling, we reject Susan's argument that the trial court erred in treating the educational debts as her non-marital debt. As set forth above, the trial court did not treat the debt as her non-marital debt. Rather, the trial court made her solely responsible for the debt because (1) she failed

to substantiate that she had actually incurred the debt and (2) and if she had incurred the debt, she had voluntarily assumed a debt that the parties could not pay.

¶ 19 We also reject Susan's argument that the trial court erred in not further equalizing the debts between the parties after it granted Gerald's motion to reconsider and to further equalize the distribution of the parties' assets. The trial court granted Gerald's motion to reconsider because it had in fact made mathematical errors in dividing the parties' assets. The trial court's order following reconsideration was thus consistent with its stated intention in the judgment of dissolution to evenly divide the assets between the parties. As the trial court had not erred in its determination that the parties had not substantiated the amount of outstanding marital debts, there was no need for it to revisit its order dividing the parties' debts.

¶ 20 Finally, Susan's argument that the trial court erred in not setting future educational support for Rhian and Elizabeth is without merit. At the time of the judgment of dissolution, Rhian's time in college was nearing completion and Elizabeth had indicated no interest in attending college. Thus, the trial court's decision to reserve jurisdiction as to the issue of future educational expenses was appropriate.

¶ 21 For the foregoing reasons, the judgment of the circuit court of Du Page County is affirmed.

¶ 22 Affirmed.