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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> MARRIAGE OF LORRI J. REEDY,)	Appeal from the Circuit Court
)	of Kane County.
Petitioner-Appellee,)	
)	
and)	No. 04—DK—1772
)	
PHILIP J. REEDY,)	Honorable
)	Joseph M. Grady,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE BOWMAN delivered the judgment of the court.
Justices Zenoff and Burke concurred in the judgment.

ORDER

Held: Where husband appealed various aspects of judgment for dissolution of marriage, the evidence supported the trial court's classification of property, apportionment of marital debt, distribution of the marital estate, and award of maintenance. That portion of the judgment reserving the issue of maintenance indefinitely was in error, however, and the cause was remanded on that basis.

Respondent, Philip J. Reedy, appeals several aspects of the Kane County circuit court judgment dissolving his marriage to petitioner, Lorri J. Reedy. On appeal, Philip argues that the trial court erred by: (1) classifying certain property as marital property as opposed to nonmarital property; (2) requiring him to pay an alleged mortgage arrearage and alleged unpaid property taxes; (3)

awarding Lorri a disproportionate share of the marital estate; and (4) determining not only that Lorri was entitled to maintenance, but by indefinitely reserving jurisdiction over the issue.

I. BACKGROUND

Philip and Lorri were married on October 21, 1989. The couple had four children: Lucas, born in 1990; Nicholas, born in 1992; Matthew, born in 1993; and Michael, born in 1998. The parties ceased living together in January 2004, and in March 2005, Lorri filed a petition for dissolution of marriage. Philip responded with a counter-petition. After the parties agreed to joint legal custody of the children, the court conducted a three-day trial in May 2009 to resolve the remaining issues. Lorri, who had previously been represented by counsel, appeared *pro se* at the hearing. Given the comprehensive nature of the trial court's 19-page judgment for dissolution of marriage, our summary of the trial testimony and exhibits is brief.

Philip, age 44 at the time of trial, testified that prior to marrying Lorri, he had inherited money and property through a trust created by his mother. Philip began receiving discretionary income distributions from this trust when he turned 21. He and his six siblings were equal beneficiaries of the trust, which consisted of both cash and property. Using \$100,000 to \$140,000 of his trust funds as a down payment, Philip purchased the marital residence in 1989 when he and Lorri got married. The home cost \$240,000, and he mortgaged the remainder, which he paid for through his employment selling copier machines. The marital residence had a fair market value of \$450,000, though their real estate broker suggested listing it at \$350,000 to help sell it quickly.

Philip had a Bachelor of Science degree, and for the first 9 to 10 years of the marriage, he worked as a photocopier sales representative while Lorri cared for the children. Philip and his family lived off his income, which ranged between \$30,000 and \$40,000 during his last three years of

employment. He then quit his job in November 1998 and decided to support his family from the trust money. Between 2001 and 2004, Philip received cash distributions from the trust totaling approximately \$1,800,000.

In 2001, Philip purchased a vacant lot next to the marital residence for \$120,000. He used nonmarital trust funds to purchase the lot, which he put in his and Lorri's name. Philip put the property in both of their names for estate planning, in case something happened to him.

Philip was questioned about a May 2005 court order that listed the expenses he was required to pay. He paid those expenses until January 2009 but had not paid the mortgage on the marital residence since that date. Pursuant to the May 2005 order, Philip paid \$3,000 per month in support, which was increased to \$4,000 in February 2006. Over the course of the proceedings, Philip had also paid for Lorri's attorney fees - \$45,000; 2005 Christmas presents - \$1,000; and her credit card bill - \$14,000. In addition, Philip testified that from February 2006 to March 2007, Lorri had taken \$17,000 from his account without permission. These expenses paid by Philip totaled \$77,000.

Philip testified that although the assets of the trust had allowed the family to live well for several years, the financial collapse in 2007 and 2008 led to the exhaustion of the trust assets. In the past, Philip had maintained health insurance for the children. However, his current part-time job as a retail clerk at Fannie May did not have benefits. Philip presently lived in Elgin and was the landlord for one apartment for which he collected \$550 rent per month. This money was used to make his car payment.

Lorri, age 48, testified as follows. She began working at a golf club in the banquet and sales office in September 2008. She worked 20 to 35 hours per week at \$12 per hour. Recently, she was offered a full-time job at a community hospital bringing lunch to the doctors. The job would start

in June or July and would pay \$10 to \$12 per hour. Lorri assumed the job would include health insurance benefits. During her days off and during the weekends, Lorri would continue to work at the golf club.

A. Judgment for Dissolution of Marriage

The judgment for dissolution of marriage, which was entered on July 17, 2009, stated as follows. Philip's nonmarital property acquired through the trust included property in Colorado and in Elgin, Illinois, where he currently resided; partial interests in property in Illinois and Colorado; checking accounts totaling around \$3,000; a Smith Barney account of less than \$100; and some items Philip inherited from his mother. The parties agreed that the net fair market value of Philip's nonmarital real estate was approximately \$350,000.

During the marriage, Philip put down \$140,000 from his nonmarital trust to purchase the marital residence in Sleepy Hollow, Illinois. The current market value of the property was between \$350,000 and \$450,000, and the mortgage on the property was approximately \$182,000. The court awarded Lorri the marital residence and made her solely liable for all costs associated with the property. A vacant lot abutting the marital residence was purchased either by the parties or by Philip with funds from his nonmarital trust. Title to the lot was in both of their names. Despite Philip's assertion that the lot was nonmarital property, and that the names of both parties were on the title for estate planning purposes only, the court determined that the lot was marital property. According to the court, the lot "was paid for by the same resources by which the parties supported themselves, which would have been from employment of the parties or either of them if either had been employed when the [lot] was purchased." Given that Philip titled the lot in both parties' names, the court found it to be a gift to the marital estate. Like the marital residence, the court awarded the lot

to Lorri, who would then be responsible for all costs related to the property. Lorri was also awarded two vehicles valued at approximately \$29,000. The court noted that Lorri was receiving a “total value” of \$576,000 (marital residence of \$350,000 + vacant lot of \$120,000 + vehicles of \$29,000 + advances from Philip throughout the proceedings of \$77,000 = \$576,000). Philip retained his vehicle, which had an undisputed value of \$9,000.

In terms of debt, the court ordered Philip to be liable for credit cards (\$13,117), his attorney fees (\$33,437), country club fees (\$4,732), and IRS payments from 2006 to 2009 (\$84,662). Lorri was liable for her attorney fees in the amount of \$63,000.

Regarding maintenance, the court noted that the parties had been married more than 19 years; that Philip was “in one way or another the breadwinner” while Lorri was a homemaker who cared for the children; that Lorri was a high school graduate with no secondary education whereas Philip had graduated from Loyola with a degree in business; and that Philip decided to “voluntarily terminate” his employment as a copier sales representative in 1998 and support the family with his nonmarital trust assets. Though Lorri was apprehensive about “neither of them having income producing employment,” Philip assured her that they would be able to “finance their lives from the trust assets.” The court further noted that even after the marriage began to deteriorate, the parties lived well on Philip’s nonmarital trust assets for more than four years, and that the trust assets paid for “almost all the expenses of the family during the pendency of these proceedings.” Philip made some of these payments voluntarily and others were required by court order. However, the world economy collapsed in 2008, and the value and marketability of Philip’s real estate in the trust had decreased significantly. Based on the statutory factors listed in section 504 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/504 (West 2008)), the court determined that Lorri was

in need of maintenance, but that the evidence reflected no assets or income from which Philip could make maintenance payments. The court noted that it had awarded “the bulk” of the marital estate to Lorri, in part because Philip was unable to pay maintenance at that time. The court then reserved Lorri’s request for maintenance, stating that “reservation of her claim may continue without end because she may require permanent maintenance.”

With respect to child support, the court noted that Philip was currently working part-time as a retail clerk at Fannie May, earning \$7.75 per hour. While Philip requested to pay child support in the amount of \$600 per month, the court did not view that figure as consistent with “Philip’s ability and his life style.” Recognizing that he had been out of the work force for over 10 years, the court still believed that Philip’s skills were “better than part time employment for \$7.75 per hour.” According to the court, there was “no reason” Philip could not earn \$36,000 per year “as he was on course to do in 1998” if he became employed at a job commensurate with his skills and abilities. As a result, the court calculated child support of \$887.04 per month, which was 32% of a net income of \$27,720 per month. Philip was also required to maintain health insurance for the children.

B. Motion to Reconsider

On August 13, 2009, Lorri filed a *pro se* motion to reconsider certain aspects of the judgment for dissolution of marriage. Specifically, Lorri argued that two prior orders dated May 26, 2005, and February 24, 2006, required Philip to “pay and keep current” the mortgage and real estate tax on the marital residence and the real estate tax on the vacant lot. Lorri alleged that the mortgage was in arrears, and that Philip had not paid real estate taxes on either property since 2008. She asked the court to order that Philip be responsible for these costs through June 2009, the month before the July 17, 2009, judgment for dissolution of marriage. Philip filed a response in which he argued that a

December 30, 2008, order had modified the prior orders referred to by Lorri. The December 30, 2008, order reduced Philip's monthly support payment to \$2,000 until further order of the court. In addition, Philip argued that Lorri had not presented any evidence that the mortgage was overdue or that taxes were due on the properties. When the parties appeared in court on Lorri's motion, she was again represented by counsel.

On October 27, 2009, the court issued a written ruling ordering Philip to pay "the mortgage arrearage on the marital residence and the real estate taxes for the marital residence and the lot next to the marital residence" up to July 17, 2009, the date that the judgment for dissolution of marriage was entered. According to the court, those sums were to be considered a judgment against Philip, although no repayment schedule was set due to Philip's present employment and "apparent financial situation." In its ruling, the court noted that Philip had argued that Lorri was "barred from having those issues addressed" because she presented no evidence regarding any arrearage in mortgage payments or unpaid real estate taxes. The court acknowledged that Lorri presented no such evidence at the trial. Nevertheless, the court found it inequitable to burden her with significant additional marital debt, when that was not the intention of the court when it awarded her that property in the judgment for dissolution of marriage.

The court further noted that the parties disputed the significance of the December 30, 2008, order requiring Philip to pay Lorri \$2,000 per month for child and spousal support. The court stated that it should have considered or taken judicial notice of the prior May 2005 and February 2006 support orders in its preparation of the judgment for dissolution of marriage. Contrary to Philip's assertion, the court determined that the December 2008 order did not terminate the obligations of

those prior orders; instead, that December 2008 order was “an alternative to the necessity of [Lorri] proceeding by other means to enforce” the prior orders on a temporary basis.

Philip timely appealed.

II. ANALYSIS

A. Classification of Vacant Lot

Philip’s first challenge to the judgment for dissolution of marriage is the trial court’s classification of the vacant lot as marital property. Prior to dividing the parties’ property upon dissolution of marriage, the trial court classifies the property as either marital or nonmarital. *In re Marriage of Wojcik*, 362 Ill. App. 3d 144, 154 (2005). The trial court’s classification will not be disturbed on appeal unless it is contrary to the manifest weight of the evidence. *Id.* at 154. A decision is against the manifest weight of the evidence only where the opposite conclusion is clearly evident or where it is unreasonable, arbitrary, and not based on the evidence. *In re Marriage of Heroy*, 385 Ill. App. 3d 640, 669 (2008).

Section 503(b)(1) of the Illinois Marriage and Dissolution of Marriage Act (Act) provides that “all property acquired by either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of marriage, including nonmarital property transferred into some form of co-ownership between the spouses, is presumed to be marital property.” 750 ILCS 5/503(b)(1) (West 2008). The Act therefore creates a rebuttable presumption that all property acquired after the date of the marriage is marital property regardless of the manner in which title is held. *Id.* at 670. “The presumption can be overcome only with a showing, by clear and convincing evidence, that the property falls within one of the statutory exceptions listed in section 503(a) of the Act.” *In re Marriage of Wojcik*, 362 Ill. App. 3d at 154; see also *In re Marriage of Heroy*, 385 Ill.

App. 3d at 670 (the Act has an express preference for the classification of property as marital property, and it is the burden of the party claiming that property acquired during the marriage is nonmarital to prove by clear and convincing evidence that the property falls within one of the exceptions listed in section 503(a) of the Act). One of the exceptions listed in section 503(a)(2) of the Act, the exception relied upon by Philip in this case, is “property acquired *** in exchange for property acquired by gift, legacy or descent.” 750 ILCS 5/503(a)(2) (West 2008). In other words, Philip argues that the vacant lot was acquired in exchange for cash he inherited via the trust. Any doubts regarding the nature of the property are resolved in favor of finding that the property is marital. *In re Marriage of Wojcik*, 362 Ill. App. 3d at 154-55.

In classifying the vacant lot next to the marital residence as marital property, the trial court found as follows:

“The parties agree that the title to the property [abutting the marital residence] is in the names of the parties. Philip contends that the names of both parties are on the title for estate planning purposes but that the property is non-marital. The Court finds that lot to be marital property. The property was paid for by the same resources by which the parties supported themselves, which would have been from employment of the parties or either of them if either had been employed when the property was purchased. Additionally, Philip titled the property in the names of the parties, a gift to the marital estate, particularly if for estate planning purposes, from which estate planning each and both parties would benefit.”

The trial court’s classification was not against the manifest weight of the evidence. The fact that the lot was purchased *after* the parties were married created the rebuttable presumption that the property was marital under section 503(b)(1) of the Act. Moreover, even if we were to assume that Philip’s

use of nonmarital funds to purchase the lot triggered the exception to marital property in section 503(a)(2) of the Act, his affirmative act of placing the title in both of their names raised the presumption that the lot was a gift to the marital estate and thus marital property. See *In re Marriage of Johns*, 311 Ill. App. 3d 699, 703 (2000) (the placing of the title to nonmarital property in joint tenancy with a spouse raises a presumption that a gift was made to the marital estate and that the property has become marital property); see also *In re Marriage of Gattone*, 317 Ill. App. 3d 346, 352 (2000) (placing nonmarital property in joint tenancy or some other form of coownership with the other spouse raises the presumption that the contributing spouse made a gift of the property to the marital estate). In making its ruling, the trial court expressly rejected Philip's argument that he did not intend for the lot to be a gift to the marital estate despite placing title in both of their names.

While conceding that the lot was purchased after the parties got married and was titled in joint tenancy, Philip nevertheless contends that he overcame the presumption that the property was marital. To overcome the presumption that the lot was a gift to the marital estate, Philip relies on the factors stated in *People v. Hunter*, 223 Ill. App. 3d 947, 952 (1992), which include the making of improvements, the payment of taxes and mortgages, the occupancy of the premises as a home or business and the extent of control and management of the property. Cf. *In re Marriage of Gattone*, 317 Ill. App. 3d at 352 (some of the significant factors for determining whether a party has successfully rebutted the presumption of a gift include (1) the size of the gift relative to the entire estate; (2) who paid the purchase price, made improvements, paid taxes on the property with solely acquired funds, and exercised control and management over the property; (3) when the asset was purchased; and (4) how the parties handled their prior financial dealings with each other). With respect to these factors, Philip essentially argues that no marital funds were used to purchase the lot,

pay the taxes, maintain it, or improve it, and that Lorri exercised no control over the property, financial or otherwise. However, as the trial court recognized, the lot was purchased by the same resources that the parties used to support themselves, *i.e.* assets from Philip's trust fund. Given Philip's decision to finance his family's expenses via his trust fund, the distinction between marital funds and nonmarital funds takes on less significance in this case. As a result, Philip's use of nonmarital trust funds to pay for and maintain the lot did not rebut the presumption created by his act of placing the lot in both of their names. Accordingly, we will not disturb the trial court's classification of the lot as marital property.

B. Mortgage and Real Estate Tax Arrearage

Next, Philip argues that the trial court erred by holding him liable for the arrearage on the mortgage of the marital residence and for unpaid real estate taxes on the marital residence and the vacant lot through the date of the dissolution judgment. The first of Philip's two-prong argument is that Lorri failed to prove the existence or amount of any such debt. We disagree. At trial, Philip was questioned regarding the May 2005 order that listed the expenses he was required to pay. Philip testified that he had paid those expenses *until January 2009* but had not paid the mortgage on the marital residence since that date. Therefore, Philip's own testimony provided evidence that he had not paid the mortgage or other expenses as of January 2009. Consistent with Philip's testimony of when he stopped paying, Lorri argued in her *pro se* motion to reconsider the judgment for dissolution of marriage that the mortgage was in arrears, and that Philip had not paid the real estate taxes on the marital residence or adjoining lot since 2008. In its written ruling on Lorri's motion to reconsider, the trial court specifically noted that Philip "contended that no evidence was presented at trial regarding any arrearage in mortgage payments for the marital residence and real estate taxes on the

properties,” and that Philip argued that Lorri “should be barred from having those issues addressed in a reconsideration or clarification of the Judgment.” Although the trial court agreed that “no evidence was presented at trial regarding the mortgage arrearage or the unpaid real estate taxes,” it nevertheless ordered Philip to pay these expenses. The court reasoned that it “should have considered or taken judicial notice of the orders of May 26, 2005, and February 24, 2006, in preparation of its” judgment for dissolution of marriage. These two orders required Philip to pay the mortgage and real estate taxes on the marital residence and lot.

This brings us to Philip’s second argument, which is that the December 30, 2008, order reducing his child support modified these two previous orders requiring him to pay the mortgage and real estate taxes. In its written ruling, the trial court expressly rejected this argument, stating as follows:

“It does not appear to the Court that the order of December 30, 2008, terminated the obligations of [Philip] established in the orders of May 26, 2005, and February 24, 2006, to keep the mortgage current and pay the real estate taxes on the marital properties and pay certain other debts and costs identified in those orders, but was an alternative to the necessity of [Lorri] proceeding by other means to enforce the terms of the orders of May 26, 2005, and February 24, 2006, on a temporary basis.”

The court continued that it would “be inequitable to award [Lorri] property of the marital estate for which costs and debts she will be liable for in the future without requiring [Philip] to have the mortgage and real estate taxes current to the date of entry” of the July 17, 2009, judgment for dissolution of marriage. According to the court, “[t]o do otherwise would effectively burden [Lorri] with significant additional marital debt which was not the intention of the Court in its Judgment.”

Essentially, the court determined that the prior orders requiring Philip to pay the mortgage and real estate taxes were to remain in effect until the date of the judgment for dissolution of marriage. Because Philip had a continuing obligation to pay these expenses and he admitted failing to do so, the trial court did not abuse its discretion in requiring him to pay the mortgage arrearage and the unpaid real estate taxes through July 17, 2009. We acknowledge that Lorri did not submit a dollar amount of the mortgage and real estate taxes owed. However, the lack of a dollar amount was not critical given Philip's admission that he had stopped paying these expenses as of January 2009; Philip was familiar with the amounts owed having a history of paying them.

The two cases relied on by Philip do not affect our conclusion. For example, in *In re Marriage of Benkendorf*, 252 Ill. App. 3d 429, 440 (1993), the husband argued that the trial court abused its discretion in distributing the property by failing to take into account liabilities that he owed. At trial, the husband testified that he owed between \$21,000 and \$29,000 on a judgment entered against him in a limited partnership venture. *Id.* at 441. The trial court did not find the husband's testimony credible, however, and there was no evidence in the record supporting the alleged debt. *Id.* at 442. Thus, the reviewing court determined that the trial court acted properly in failing to consider the alleged debt. *Id.* at 442. The difference between *In re Marriage of Benkendorf* and this case is that there, it was unclear whether a debt actually existed, whereas here, it is clear that Philip had stopped making the payments. The second case relied on by Philip is *In re Marriage of DeBow*, 236 Ill. App. 3d 1038 (1992). As was the situation in *In re Marriage of Benkendorf*, the issue in *In re Marriage of DeBow* was whether the marital debts claimed by the wife actually existed. The trial court did not award her the amounts she sought, and the appellate court affirmed, noting that the wife's testimonial evidence regarding the alleged debts was "less than

convincing.” *Id.* at 1049. The court was concerned that no receipts or bills were introduced into evidence to substantiate the claims made by respondent concerning marital obligations. *Id.* at 1050. Again, this case differs from *In re Marriage of DeBow* because here, there were previous orders requiring Philip to pay the mortgage and real estate taxes, yet he testified that he stopped making those payments.

Having affirmed Philip’s obligation to pay the mortgage and real estate tax arrearage, he argues in the alternative that the case be remanded with instructions to the trial court to reallocate the division of the marital property in light of this additional marital debt assigned to him. This issue is best addressed in the context of Philip’s next argument, in which he challenges the court’s overall distribution of the marital assets and debts.

C. Division of Marital Estate

The assets and debts in this case are undisputed. The parties’ marital assets included the marital residence (\$350,000), the adjoining lot (\$120,000), two cars (\$29,000), and one additional car (\$9,000), for a total of \$508,000. The marital debts consisted of the mortgage on the marital residence (\$182,000), Lorri’s attorney fees (\$63,000), Phillip’s attorney fees (\$33,437), a Visa Card balance (\$10,926), an American Express balance (\$2,191), a dermatologist bill (\$1,082), a trumpet (\$100), an allergist bill (\$62), country club fees (\$4,732), and IRS bills from 2006 to 2008 (\$84,622) for a total of \$382,192. Subtracting \$382,192 in debts from \$508,000 in assets resulted in a net marital estate of \$125,808. The trial court awarded Lorri all of the assets except the \$9,000 car, resulting in an award of \$499,000. As far as debts, the court assigned Lorri the \$182,000 mortgage and \$63,000 attorney fees which totaled \$245,000, resulting in a net award of \$254,000 (\$499,000 - \$245,000). Philip was awarded the \$9,000 car and assigned all of the debts except the mortgage and

Lorri's attorney fees, which totaled \$137,192, resulting in a net liability of \$128,192. The bottom line of the dissolution judgment, according to Philip, was that Lorri received "202% of the net marital estate," while Philip received "negative 102%" of the net marital estate.

Philip challenges the above distribution in several ways. First, he argues that the trial court's "profoundly inequitable distribution is without precedent or basis in the law," in that no reasonable person would divide the parties' assets and debts in the manner ordered by the court. Philip points out that only a handful of cases involving marital estates in excess of \$500,000 awarded the wife more than 60% of the marital estate. In cases where the spouse did receive almost the entire marital estate, he contends that there were unique and extreme circumstances not present here. Philip also argues that the court failed to deduct against her share \$77,000 in bills that he paid on Lorri's behalf, and that the distribution failed to reflect the trial court's subsequent ruling on reconsideration requiring him to pay the mortgage arrearage and unpaid property taxes. Concluding that the court's distribution constituted an abuse of discretion, Philip requests this court to reverse the trial court's division and remand the cause for a more equitable distribution.

Section 503(d) of the Act governs the distribution of marital property and states that the trial court shall divide such property "in just proportions considering" the following factors:

"(1) the contribution of each party to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property, including the contribution of a spouse as a homemaker or to the family unit;

(3) the value of the property assigned to each spouse;

(4) the duration of the marriage;

(5) the relevant economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home, or the right to live therein for reasonable periods, to the spouse having custody of the children;

(8) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;

(9) the custodial provisions for any children;

(10) whether the apportionment is in lieu of or in addition to maintenance;

(11) the reasonable opportunity of each spouse for future acquisition of capital assets and income; and

(12) the tax consequences of the property division upon the respective economic circumstances of the parties.” 750 ILCS 5/503(d) (West 2008).

The trial court has broad discretion in the division of marital assets. *In re Marriage of Wojcik*, 362 Ill. App. 3d at 161. We will reverse a trial court’s division only where it constitutes an abuse of discretion. *Id.* at 161. An abuse of discretion occurs only when no reasonable person would take the view adopted by the trial court. *Id.* at 161. Furthermore, the Act does not require that property be distributed with mathematical equality; rather, the touchstone of proper apportionment is whether it is equitable in nature. *In re Marriage of Heroy*, 385 Ill. App. 3d at 661. As a result, an unequal division of marital property may be appropriate depending on the circumstances. *Id.* at 661. Each case rests on its own facts. *In re Marriage of Polsky*, 387 Ill. App. 3d 126, 136 (2008).

Our review of the facts in this case leads us to the conclusion that the trial court did not abuse its discretion in distributing the marital assets and debts. As Philip concedes, putting aside the

marital debts, the trial court's division of marital assets was 98% in favor of Lorri and 2% in favor of Philip. This division is supported by the factors in section 503(d). One of the significant factors in this case was the value of the property assigned to each spouse. Philip's nonmarital property was valued at \$350,000, whereas Lorri had none. "It is well settled that a trial court is justified in awarding almost all of the marital property to one spouse if the other spouse has substantial nonmarital assets." *In re Marriage of Gattone*, 317 Ill. App. 3d at 355; see also *In re Marriage of Holman*, 122 Ill. App. 3d 1001, 1010-11 (1984) (award of 92% of marital property to one spouse and 7% to the other spouse affirmed where one spouse's significant amount of nonmarital property justified an award of most of the marital property to one spouse); *Atkinson v. Atkinson*, 87 Ill. 2d 174, 179-80 (1981) (the factors supported an award of almost all of the marital property to one spouse). While Philip argues that he did not "control" all of his nonmarital property given his partial ownership, two of the properties belonged to him exclusively: a building in Elgin where he resided and rented out one apartment for \$550 per month and a rental investment property in Colorado. On the other hand, when considering only the marital debts, we note that the trial court divided the debts unevenly in favor of Philip (Lorri assigned \$245,000 in debts whereas Philip assigned \$137,192 in debts). See *In re Marriage of Davis*, 292 Ill. App. 3d 802, 807 (1997) (marital debts as well as marital assets must be distributed equitably). Overall, the trial court's division of the marital assets and debts resulted in a nearly equal distribution of the marital estate when factoring in Philip's nonmarital assets of \$350,000.

Moreover, other factors in section 503(d) of the Act favored Lorri. First, Lorri had custody of the four children, which she had devoted her time to raising. Second, Lorri's employability and opportunity for future acquisition of assets was less than Philip's given her lack of college degree

and her lack of work history. On this point, Philip’s argument that Lorri was presently earning more than him was discredited by the trial court. The court noted that there was no reason Philip could not find employment commensurate with his skills, degree, and previous employment. In terms of which party contributed financially to the marital estate, Philip argues that he alone made such contributions, meaning that this factor favored him. However, in a long-term marriage, the source of the assets in acquiring marital property becomes less of a factor, and a spouse’s role as homemaker becomes greater. See *In re Marriage of Polsky*, 387 Ill. App. 3d at 136. Last, the trial court specifically stated that it awarded the “bulk” of the marital estate to Lorri partly because Philip was unable to pay maintenance at that time. See *In re Marriage of Heroy*, 385 Ill. App. 3d at 662 (the trial court is authorized to award either property or maintenance, both property and maintenance, or property in lieu of maintenance).

We similarly reject Philip’s claim that the marital property distribution was inequitable based on the trial court’s failure to deduct from Lorri’s share the \$77,000 Philip paid on Lorri’s behalf. At trial, Philip testified that over the course of the divorce proceedings, he paid \$45,000 in attorney fees for Lorri; he gave her \$1,000 for Christmas presents; he paid her \$14,000 credit card bill; and she removed \$17,000 from his account without permission. Philip points out that he asked the trial court to treat these expenditures as an advancement against Lorri’s share of the marital estate, but that the trial court ignored this request. In the judgment for dissolution of marriage, the trial court noted that Philip had financed the family during the four-year pendency of the proceedings through his nonmarital trust assets, and that he had expended substantial sums supporting Lorri and the children. According to the court, some of the bills were paid voluntarily by Philip and some were paid by court order. The trial court also stated that when adding the marital residence (\$350,000),

the vacant lot (\$120,000), the two cars (\$29,000), and “advances of \$77,000,” Lorri received approximately \$576,000 according to the evidence and arguments. Clearly, the trial court was aware that Philip was paying for the family’s expenses and legal costs during the divorce proceedings, which included \$77,000 worth of bills.

Contrary to Philip’s assertion, the trial court did not abuse its discretion by failing to deduct the \$77,000 from Lorri’s share of the marital estate. As the trial court recognized, the only source of income for the parties for several years was Philip’s nonmarital trust money, which was also used to pay for expenses during the divorce proceedings. When that money ran out, both parties eventually got jobs. However, this change in financial circumstances affected Lorri differently than Philip because Lorri had no secondary education or work history to fall back on. The trial rejected the idea of making Lorri liable for \$77,000 in expenses paid for by the trust, presumably because all the expenses for the past 20 years had been paid for by the trust. As we discussed above, the factors governing the distribution of marital property favored awarding Lorri most of the marital property, and the trial court did not abuse its discretion by failing to offset against her share the \$77,000 in expenses.

Philip’s final argument regarding the marital property distribution is that it was inequitable based on the court’s ruling that he be required to pay the mortgage arrearage and unpaid property taxes. While Philip refers to these expenses as “additional marital debt” that was assigned to him, it was not, in reality, “additional” debt. In its written ruling on Lorri’s motion to reconsider, the trial court explained that Philip’s obligation to keep the mortgage current and pay the real estate taxes had never changed by virtue of the court’s prior orders. In other words, Philip was responsible for these expenses until the date of the judgment for dissolution of marriage (July 17, 2009), at which time

Lorri would be awarded the property and assume all related expenses. Although Philip admitted that he had stopped paying these expenses in January 2009, the trial court's intention in awarding Lorri the marital residence and the lot was that the expenses be paid up to July 17, 2009. Therefore, the court's ruling on Lorri's motion to reconsider simply clarified what was already contemplated in the judgment for dissolution of marriage, and we find no abuse of discretion.

D. Maintenance

Philip's final argument on appeal is that the trial court abused its discretion by determining that Lorri was entitled to maintenance and by reserving her claim "without end." Philip requests this court to either reverse outright the finding that Lorri was entitled to maintenance or to at least reverse that portion of the judgment reserving maintenance and remand the case with instructions to set a specific date to hold a hearing on the issue of maintenance.

A trial court's determination as to an award of maintenance is within the discretion of the trial court, and we will not disturb a maintenance award absent an abuse of discretion. *In re Marriage of Heroy*, 385 Ill. App. 3d at 650. An abuse of discretion occurs only where we can conclude that no reasonable person would take the view adopted by the trial court. *Id.* at 651. It is the burden of the party challenging the award of maintenance to show an abuse of discretion. *Id.* at 651. Here the trial court determined that Lorri was entitled to maintenance, but it reserved jurisdiction on the issue due to Philip's current inability to pay. A reserved-jurisdiction approach to maintenance is appropriate in cases where the responsible party's present ability to pay maintenance is limited. *In re Marriage of Wojcik*, 362 Ill. App. 3d at 168. "As with other maintenance determinations, a trial court's decision to reserve jurisdiction on the issue of maintenance will not be disturbed absent an abuse of discretion." *Id.* at 168.

Section 504(a) of the Act provides that the court may grant temporary or permanent maintenance after considering the following factors:

“(1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance;

(2) the needs of each party;

(3) the present and future earning capacity of each party;

(4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;

(5) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to support himself or herself through appropriate employment or is the custodian of a child making it appropriate that the custodian not seek employment;

(6) the standard of living established during the marriage;

(7) the duration of the marriage;

(8) the age and the physical and emotional condition of both parties;

(9) the tax consequences of the property division upon the respective economic circumstances of the parties;

(10) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;

(11) any valid agreement of the parties; and

(12) any other factor that the court expressly finds to be just and equitable.”

750 ILCS 5/504(a) (West 2008).

Philip argues that maintenance was inappropriate given his inability to pay it, the parties' similar incomes and prospects for future earnings, and the "disproportionate" share of the marital estate awarded to Lorri. We disagree.

First, Philip's inability to pay maintenance does not mean that he should not have to pay it if his financial situation improves. As stated, the trial court appropriately reserved jurisdiction on the issue of maintenance in this case based on Philip's current inability to pay. Second, the parties did not have similar prospects for future earnings. As the trial court noted, Lorri had a high school diploma with no further schooling whereas Philip had a college degree. While Philip argues that he and Lorri presently had similar incomes, the trial court did not believe that Philip's part-time job at Fannie May paying \$7.75 per hour was commensurate with his skills or his prior work history. Lorri, who had no work history or degree to rely on, testified that she would be working two jobs and earning approximately \$10 to 12 per hour. Third, Philip is correct that Lorri was awarded almost the entire marital estate partly based on him not having the finances to pay maintenance. However, "courts have rejected claims that the trial court abused its discretion in awarding one spouse both permanent maintenance as well as a disproportionate share of the marital estate." *In re Marriage of Heroy*, 385 Ill. App. 3d at 662. Still, we agree with that this is a factor the court must consider in fashioning the appropriate amount of maintenance.

Last, there were other factors supporting a maintenance award for Lorri, which included: the length of the parties' marriage - 19 years; Lorri's role as a homemaker and caretaker for the children; Philip's assurances to Lorri that the family would be able to finance their lives from the trust assets and Lorri's apprehensiveness about Philip leaving his job as a copier sales representative; and the

parties' high standard of living based on the trust assets until the economic decline in 2008. In sum, the court concluded that the first nine factors of section 504(a) supported an award of maintenance for Lorri, and we find no abuse of discretion.

That said, we do agree with Philip's claim that it was inappropriate to reserve jurisdiction over this issue indefinitely. On the one hand, time-limited maintenance which is reviewable at a certain date in the future has been widely accepted by Illinois courts as a logical, practical, and fair way to handle maintenance awards. *In re Marriage of Bothe*, 309 Ill. App. 3d 352, 357 (1999). On the other hand, the trial court's failure to set a reasonable and certain time for review of the maintenance issue amounts to an abuse of discretion. See *id.* at 357. Here, the trial court improperly reserved the issue of maintenance indefinitely, which amounts to an abuse of discretion. Lorri concedes this point and requests this court to set a future hearing date of five years from the date of the judgment for dissolution of marriage. Opposing the five-year period, Philip requests this court to set a hearing date of three years from the judgment for dissolution of marriage. We determine that the trial court is in the best position to assess the relevant time period for holding a hearing on the issue of maintenance. We thus vacate that portion of the trial court's order reserving jurisdiction indefinitely and remand the case with instructions that the trial court either set a specific date to hold a hearing to rule upon the issue of maintenance (see *In re Marriage of Wojcik*, 362 Ill. App. 3d at 171) or rule that the issue of maintenance shall be reserved until a reasonable and certain date (see *In re Marriage of Bothe*, 309 Ill. App. 3d at 357-58). On remand, the trial court is reminded that it awarded Lorri the "bulk" of the marital estate based on Philip's current inability to pay maintenance.

III. CONCLUSION

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Based on the foregoing reasons, we affirm the judgment of the Kane County circuit court in all respects except that portion reserving maintenance indefinitely. We vacate that portion of the judgment and remand the cause with directions.

Affirmed in part and vacated in part; cause remanded with directions.