NOT DESIGNATED FOR PUBLICATION

No. 104,285

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE MARRIAGE OF

VICTOR HUGO ARHUIRE,
Appellant,

and

VIVIANA TUESTA NEE ARHUIRE,
Appellee.

MEMORANDUM OPINION

Appeal from Wyandotte District Court; DANIEL A. DUNCAN, judge. Opinion filed September 2, 2011. Remanded with directions.

Aldo P. Caller, of Shawnee Mission, for appellant.

No appearance by appellee.

Before MCANANY, P.J., HILL, J. and LARSON, S.J.

Per Curiam: This is an appeal of a property division and an award of maintenance in a divorce case. Meaningful appellate review of the actions of a trial court can come about only when the facts of the case and the reasoning of the trial judge are made manifest to the appellate court. Here, because the trial court neither made sufficient findings nor gave its reasoning for its division of marital assets, we must remand the matter so the court can make such findings and elaborate on why the court awarded maintenance and divided the property as it did.

We offer a brief case history.

By using a pro se divorce kit, Victor Hugo Arhuire obtained a divorce from Viviana Arhuire in 2004. The district court set this aside in 2005 when Viviana retained counsel and she sought relief for fraud on the court. For example, Victor had alleged they had no children, when in fact, they had two. Then, later in 2005, the court granted the parties a divorce, ordered child support and restored Viviana to her former name of Tuesta. Division of debts, assets, and maintenance were "left open." After several hearings were continued and mediation failed, the matter was heard by the district court on April 6, 2009.

In the record on appeal no domestic affidavit, required in all divorce cases by Rule 164 (2010 Kan. Ct. R. Annot. 242), can be found. A careful reading of the transcript of the hearing of April 6, 2009, reveals no reference to such an affidavit for either side. Nothing in the transcript mentions that the court or the parties ever waived this requirement. We have nothing of evidentiary value to consider when looking at this division of assets other than the conclusion of the trial court.

Looking at the conclusions of the trial court, the judge merely adopted proposed findings of fact Nos. 1, 2, 3, 9, 10, 11, 12, 14, 15, 16, and 18 from Victor. Then, the court adopted Nos. 1, 3, 4, 5, 6, 7, 8, 9, and 12, from Viviana's proposed findings of fact. The record on appeal does not contain Viviana's proposed findings of fact. No reasons were given by the court for adopting or rejecting any of the facts. Furthermore, the district court, in its memorandum decision, gave no reasons for any of its decision as required by Rule 165 (2010 Kan. Ct. R. Annot. 242). The court merely stated, "This is a divorce property division governed by K.S.A. 60-1600 et seq. and the precedental [*sic*] opinions of the Kansas Supreme Court and Court of Appeals." From that point on, the document merely lists the orders of the court.

We need more information to do our job.

Among the duties imposed on our busy trial judges, is the responsibility to make findings, give conclusions, and explain their reasoning. This benefits the parties and makes appellate review straightforward and based on reason, not conjecture. "It is well settled that the requirements of K.S.A. 60-252(a) and Supreme Court Rule No. 165 are in part for the benefit of the appellate court; and when the findings and conclusions of the trial court are not adequate to permit meaningful appellate review, this court has no alternative but to remand the case for new or additional findings and conclusions." *In re Adoption of Chance,* 4 Kan. App. 2d 576, 580, 609 P.2d 232, *rev. denied* 228 Kan. 806 (1980).

That is what we must do in this case. We remand the matter to the district court to make findings of fact and give reasons for the property division it has made. Furthermore, the court must elaborate on why it awarded maintenance as it did and how it arrived at the amount and duration of the payments. The division and the award may very well be equitable. We just cannot tell given the scant information we have.

Remanded for further fact finding and reasoning.