NOT DESIGNATED FOR PUBLICATION

No. 111,494

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Matter of the Marriage of:

RUTH N. STYLES,
Appellee,

and

RICHARD G. STYLES,
Appellant.

MEMORANDUM OPINION

Appeal from Pottawatomie District Court; JEFFREY R. ELDER, judge. Opinion filed March 20, 2015. Affirmed.

David S. Patrzykont, of Eldridge & Patrzykont, LLC, of Kansas City, for appellant.

Paul Shipp, of Kansas Legal Services, of Manhattan, for appellee.

Before ATCHESON, P.J., POWELL, J., and JOHNSON, S.J.

Per Curiam: In this divorce case, Respondent Richard G. Styles contends the Pottawatomie County District Court improperly excluded a parcel of land from the marital assets and, as a result, erred in dividing those assets equitably and in requiring him to quitclaim his interest in the land. The argument misapprehends the district court's ruling. The land was treated as a marital asset, and the division of property between Richard and Ruth N. Styles, his former wife, appears equitable. We, therefore, affirm.

After 50 years of marriage, Richard and Ruth separated in 2005. Ruth filed a petition for divorce in 2013. The dispute before us concerns the district court's treatment of two pieces of real estate. In 1997, Richard, Ruth, and Robin N. Styles, their adult daughter, bought land in Westmoreland, Kansas. They held the parcel in joint tenancy. Richard and Ruth contributed to the purchase of that land, although Robin made the mortgage payments and lived in the house there.

When Richard and Ruth separated in 2005, they sold their personal residence and divided the proceeds. Ruth moved to the Westmoreland property and lived with Robin. She used some of the sale proceeds to pay down the mortgage on the Westmoreland property and for improvements to the house.

After separating from Ruth, Richard moved to residential property in Edwardsville, Kansas, the couple had owned for nearly 40 years. The Edwardsville property consists of two contiguous lots treated as a single parcel.

During a hearing in this case, Ruth and Robin testified that everyone had intended Robin own the Westmoreland property. They said the land was acquired by the three in joint tenancy only as a device to avoid probate should Robin die before her parents. In the journal entry dealing with the division of the real property, the district court noted that ostensible purpose and pointed out that "[i]n hindsight, [it was] not a very good plan."

The district court ordered Richard to quitclaim his interest in the Westmoreland property to Ruth. The district court then granted possession of the Edwardsville property to Richard and directed that he pay $51,000 to Ruth, reflecting 40 percent of the parcel's value. If Richard could not make that payment, the Edwardsville property was to be sold with 60 percent of the proceeds going to Richard and the balance to Ruth. The district court ordered that treatment of the Edwardsville property "after considering the evidence, including the division of the other assets and liabilities of the parties." In the journal

entry, the district court expressly disclaimed making any determination of the relative interests of Ruth and Robin in the Westmoreland property because Robin was not a party in the divorce.

Richard has timely appealed.

On appeal, Richard principally argues that the district court did not treat the Westmoreland property as a marital asset. In turn, according to Richard, the district court should not have required him to quitclaim his interests in the property and doing so skewed the overall property settlement in Ruth's favor. Richard's premise and conclusions are mistaken.

The district court's very exercise of authority over Richard's interest in the Westmoreland property belies the basis of the argument. In a divorce action, the district court has the authority to divide marital property and adjust marital obligations. See K.S.A. 2014 Supp. 23-2802; previously K.S.A. 60-1610(b)(1). But the court has no similar authority with respect to nonmarital assets and liabilities. The district court's direction to Richard that he relinquish his interest in the Westmoreland real estate to Ruth necessarily carries with it an implicit finding that the property represented a marital asset. The district court otherwise would have had no business telling anyone what to do with the property.

The circumstances are unusual only because a third person—daughter Robin—had an interest in the Westmoreland property. Typically, only the divorcing spouses have interests in the marital property such as real estate so the divvying up of those assets becomes a matter of equitable apportionment. Here, however, Robin's interest in the land is a complicating factor. As a result, Richard and Ruth each had an interest in the Westmoreland property, but they did not hold a full fee-simple to the land. The district court could not, for example, order the sale of the Westmoreland property with an

appropriate distribution of the proceeds, as it conditionally did with the Edwardsville property. That would extinguish Robin's interest in the land. But the district court didn't have that authority because Robin was not a named party in this case.

The journal entry is consistent with the treatment of the Westmoreland parcel or, more properly, the interests of Richard and Ruth in it as marital assets. Richard's argument to the contrary is unavailing. He contends the journal entry gives legal effect to the parties' intent that Robin was to own the Westmoreland property. As we have mentioned, the journal entry acknowledged that stated purpose. But the district court then pointed out that the transaction, as undertaken, failed of that purpose. It did so precisely because Richard and Ruth had ownership interests in the land—interests that constituted marital assets.

Accordingly, the district court had the authority to direct Richard to transfer his interest in the Westmoreland property to Ruth in settling the financial aspects of dissolving their marriage. The division of marital assets and obligations is entrusted to the district court's sound discretion. *In re Marriage of Wherrell*, 274 Kan. 984, 986, 58 P.3d 734 (2002); *In re Marriage of Vandenberg*, 43 Kan. App. 2d 697, 715, 229 P.3d 1187 (2010). A district court exceeds that discretion if it rules in a way no reasonable judicial officer would under the circumstances, if it ignores controlling facts or relies on unproven factual representations, or if it acts outside the legal framework appropriate to the issue. See *Northern Natural Gas Co. v. ONEOK Field Services Co.*, 296 Kan. 906, 935, 296 P.3d 1106, *cert. denied* 134 S. Ct. 162 (2013); *State v. Ward*, 292 Kan. 541, Syl. ¶ 3, 256 P.3d 801 (2011), *cert. denied* 132 S. Ct. 1594 (2012). In short, the district court did not misapply the law in treating Richard's and Ruth's interests in that property as marital assets and, therefore, could not have abused its discretion in the way Richard suggests.

We do not understand Richard to be making an argument that the overall division of marital assets and liabilities amount to an abuse of discretion if, in fact, the

Westmoreland property were properly treated as an asset. He has not presented even a generic accounting to that effect. And we certainly do not perceive some gross disparity based on what the parties have directed us to in the record. The evidence indicates the Westmoreland property to be worth more than the Edwardsville property. But in general terms, Ruth appears to have greater equity than Richard in the Westmoreland property. While they both seem to have contributed substantially equally to the Edwardsville property, Richard was granted a greater interest in it. The parties have not directed us to how any other assets and obligations were divided. So we cannot and will not say the overall settlement of marital accounts reflects either palpable inequity or demonstrable abuse of judicial discretion.

Affirmed.