

MMX-FA22-6035859-S

MICHAEL ALETTA

v.

VICTORIA ALETTA

OFFICE OF THE CLERK  
SUPERIOR COURT

2024 JUN 12 P 2:13

JUDICIAL DISTRICT OF  
MIDDLESEX  
STATE OF CONNECTICUT

SUPERIOR COURT

J.D. OF MIDDLESEX

AT MIDDLETOWN

JUNE 12, 2024

**MEMORANDUM OF DECISION**  
**RE: PROPERTY DISTRIBUTION IN DISSOLUTION ACTION**

This action commenced by a complaint dated October 27, 2022, and filed by the plaintiff husband (hereinafter, "Husband") on November 8, 2022, which was returnable to the court on November 29, 2022. The defendant wife (hereinafter, "Wife") filed a cross complaint on December 14, 2022. The parties were each represented by competent counsel. On July 28, 2023, the court held a hearing on the cross complaint, wherein the Wife appeared but the Husband failed to appear, but his counsel was present. Husband's counsel represented that Husband had been unreachable for an extended period. Based on the agreement of counsel and the Wife, the court made findings and dissolved the parties' marriage. A judgment of dissolution entered on July 28, 2023, and the court entered additional orders to bifurcate the property distribution portion of this action and continued the matter to a subsequent court date (*Adelman, J.*) (Entry # 119).

The property distribution portion of this action was heard by this court over two half-days, November 13, 2023, and February 22, 2024. Both parties appeared, testified, and were represented by counsel.

All valuations of assets were made as of the date of dissolution unless otherwise specified herein. Because there are financial issues in dispute, the financial affidavits of the parties are hereby unsealed pursuant to Practice Book § 25-59A (h).

The court has fully considered the rules of practice, full exhibits, testimony from the parties as well as the demeanor and credibility of the parties, arguments of counsel, applicable case law,

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John Rosati, AC

and the criteria set forth in General Statutes §§ 46b-81 and 46b-82 in reaching the decisions reflected herein. The court also reviewed the parties' financial affidavits and proposed orders as submitted by the parties' counsel. Findings and orders regarding the property distribution are as follows.

#### Factual Findings

Based upon the testimony and evidence presented at trial, the court finds as follows. All findings of fact are based on a preponderance of the evidence, and all valuations of assets are made as of the date of dissolution, unless otherwise specified.

1. The court has jurisdiction over this matter, and all statutory stays were found to have expired.
2. The parties married on February 29, 2020, at Prospect, Connecticut.
3. The parties resided continuously in the state of Connecticut for at least twelve months prior to the commencement of this action.
4. The court (*Adelman, J.*) found that the marriage of the parties had broken down irretrievably with no possibility of reconciliation.
5. There were no children issue of this marriage.
6. Neither party had received financial assistance from the state of Connecticut.
7. The allegations in the cross complaint were proven and were found to be true.
8. With the consent of the parties and through counsel, the court (*Adelman, J.*) after dissolving the parties' marriage on the record on July 28, 2023, retained jurisdiction on the issue of distribution of the proceeds held in escrow from the sale of the marital home.

9. At the dissolution, Wife waived her rights to alimony, to any claims to any of Husband's retirement accounts, annuities, or any other assets he may have other than the proceeds of the sale of the marital home.
10. Wife's maiden name was Victoria Martin. At the dissolution, the court ordered that Wife's grandmother's maiden name of DiMella be restored.

### **The Parties**

11. Husband's age is unknown, but he appeared to be close in age to Wife. He is in good health but testified to suffering from mental health issues related to his ongoing struggles with a substance abuse disorder. Although he is currently unemployed, at the beginning of the marriage and until summer 2021, he worked for a construction company and received an annual income of \$75,000. The defendant also testified that he is a carpenter. He is currently living with his parents and unable to support himself.
12. Wife is 38 years old and in good health. She is employed by Barlett Brainard Eacott, Inc. as a Project Engineer and receives an annual income of \$69,000, and a net weekly income of \$982. She is able to maintain her employment and support herself on her income.

### **Assets**

13. *Marital Home*: The parties' largest asset, which is the only asset the parties disagree on how to properly distribute, is an escrow account with a balance of \$123,424.16. This escrowed balance represents the proceeds from the sale of the marital home, property known as 340 Main Street, Portland, Connecticut (hereinafter, "Main Street"), after having accounted for the disbursements noted in Paragraph 14 immediately below. The parties sold the property while this case was pending and through counsel agreed to hold the proceeds in escrow pending an agreement or further order of the court (Entries # 118, 119).

The proceeds are being held in escrow at Attorney Daniel H. Miller's office in Waterbury, Connecticut.

14. Wife has received \$30,000 as a partial disbursement from the net proceeds of the sale of the home and Husband has received \$10,000.
15. Prior to the marriage of February 29, 2020, on July 1, 2016, Husband entered into a lease agreement with an option to purchase the Main Street property for \$170,000.<sup>1</sup> This agreement was between Husband, his two uncles, an aunt and his mother and was set to expire on June 30, 2019.
16. In June of 2019, prior to the marriage, the parties together purchased the Main Street property and obtained a mortgage by exercising Husband's option to purchase the property. Around that time, the property was appraised at \$190,000<sup>2</sup> but they purchased it at \$170,000.
17. The evidence shows that early in the marriage, the parties mutually agreed to split the mortgage payments commensurate with their base income. Husband paid 55 percent and Wife paid 45 percent. Most of the remaining household expenses were shared equally, but the parties did not co-mingle their income.
18. The parties testified credibly that they had each contributed significant amounts of time, effort, sweat labor and money to bringing the Main Street property up to par and increased its value significantly. However, the parties did not keep adequate records of their respective spending and did not provide the court with sufficient evidence showing that one party spent more money or more time than the other.

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<sup>1</sup> Plaintiff's Exhibit 6, Lease Agreement with option to purchase.

<sup>2</sup> Defendant's Exhibit D, Appraisal dated May 8, 2019.

19. Husband testified credibly that he, without any contribution from Wife, performed and paid for a full renovation of the bathroom and kitchen of the home. He completely gutted the subfloor, the walls, plumbing, the ceiling, installed new sheetrock, new shower stall, tile floor, new vanity, granite countertops, painted and replaced the toilet. Among other things, he testified to have installed new appliances, plumbing, and cabinets in the kitchen.
20. Husband testified that he paid for most of these renovations with his own money and \$9,000 he borrowed from his mother.
21. Wife, on the other hand, testified credibly admitting that she did not do all the heavy lifting, but contributed financially and significantly by her labor in calking, patching, painting, cleaning, and cutting tiles. After Husband left the home, Wife testified credibly that she solely contributed not only sweat equity but also financially in her efforts to prepare the property to be shown and eventually sold.

#### **The Parties' Marriage**

22. The parties met in 2015 through work and began dating in December of 2015. The parties were married nearly 4 years later on February 29, 2020. Both parties worked during the marriage. At the time of the marriage, Husband earned approximately \$75,000 annually and Wife earned approximately \$65,000.
23. Notwithstanding the funds currently held in escrow as noted in Paragraph 13 of this decision, neither party has made any claim to the other's retirement assets, if any, or bank accounts or other assets.
24. Neither party requested an order of alimony. Wife waived any rights she may have had to claim of alimony or share in any of Husband's retirement account, if any.

25. Husband did not appear for the dissolution proceedings, and therefore, waived his rights to any claim of alimony from Wife.<sup>3</sup>

26. Neither party requested attorney's fees in connection with this action.

### **Breakdown of the Marriage**

The parties married in February 2020. When asked about the breakdown, Wife testified that she believed the marriage was not going to work when Husband relapsed and began using drugs, which she believed was the precipitating factor to why this marriage fell apart. Wife also testified that Husband had sexually abused her during the marriage. The court did not credit her testimony as she did not provide any evidence of abuse and the court did not find her testimony credible in this regard. Husband credibly denied any sexual or physical abusive behavior toward Wife. He however testified credibly that he had relapsed a couple of times during the marriage and began using drugs. The evidence shows that the last straw in the marriage was when Husband relapsed in the Spring 2021 and left the home in August 2021. However, the evidence shows that although Husband left the home in August 2021, he continued to pay his share of the mortgage and household expenses up to and including November 2021. Thereafter, Wife solely maintained the home and prepared it to be sold in December 2022.

Given the testimony provided by both parties the court finds Husband to be more responsible than Wife for the breakdown of the marriage. Wife testified that she noticed that Husband had relapsed in July 2021 but that she believed the relapse involved only alcohol. She

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<sup>3</sup> See *Pennette v. Pennette*, Superior Court, judicial district of Stamford-Norwalk, Docket No. FA-20-6046336-S (December 13, 2023, *DeCastro-Tunnard, J.*) (“defendant did not appear at the trial for the dissolution of the marriage . . . . Any claim for an award from the plaintiff is therefore waived.”).

later learned it involved other drugs as well. She testified credibly that she insisted and encouraged Husband to enter a rehabilitation, and he did.

In her testimony and proposed orders, Wife seeks to have the remaining net proceeds from the sale of the Main Street disbursed to her. At the hearing, Wife requested that based on the cause of the breakdown of the marriage she should receive 75 percent of the proceeds. Wife testified that during the marriage Husband withdrew \$14,000 from a joint account and requests that she be reimbursed for her share of \$7,000. Husband did not deny having withdrawn these monies from a joint account. However, no supporting evidence was provided to the court regarding this alleged withdrawal that took place during the marriage. Moreover, the court finds that during the marriage, the parties appeared to manage independently their monies and did not co-mingle their monies. Wife also testified that Husband had a Robinhood annuity account and a Coinbase account that he depleted during the marriage. In his testimony, Husband confirmed that he depleted these accounts for a total sum of approximately \$67,000.

In his testimony and proposed orders, Husband seeks to have 80 percent of the proceeds held in escrow disbursed to him. However, in his final argument he amended his proposal arguing that both parties contributed significantly to the value of the property and that the entire proceeds shall be equalized between the parties. Husband also testified that during the marriage, Wife sold a rental property and profited \$90,000 to \$100,000 from this sale. He testified that he contributed to Wife's rental property during the marriage by assisting with repairs and maintenance and that Wife did not share with him any of the proceeds of the sale of Wife's rental property, which took place during the marriage.

### Case Law and Discussion

In reaching the decisions reflected herein, the court has fully considered the rules of practice, full exhibits, testimony from the parties, the demeanor and credibility of the witnesses, arguments of counsel, applicable case law, and Connecticut statutory law, including, but not limited to, General Statutes §§ 46b-81 and 46b-82. Within the context of the court's general application of the facts found, certain positions and arguments advanced by the parties warrant a more detailed analysis. In making its orders, the court has fairly and impartially considered the applicable statutory criteria and considered all the evidence it found credible, including, but not limited to, the testimony of the parties and the documentary evidence that was submitted by both parties as full exhibits.

When issuing financial orders, the court is required by statute to consider and weigh several factors. The court is guided by a similar analysis as set forth in § 46b-81 (c), which provides in relevant part that when making any order regarding the distribution of the marital estate, the court should consider several factors.<sup>4</sup> As to property division, “[t]he purpose of a property distribution . . . is to unscramble existing marital property in order to give each spouse his or her equitable share at the time of dissolution.” (Internal quotation marks omitted.) *Hornung v. Hornung*, 323 Conn. 144, 153, 146 A.3d 912 (2016); see also *Blake v. Blake*, 211 Conn. 485, 497–98, 560 A.2d 396 (1989). It is well established, in dissolution actions, the court is not required to distribute the

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<sup>4</sup> General Statutes § 46b-81 (c) provides: “In fixing the nature and value of the property, if any, to be assigned, the court, after considering all the evidence presented by each party, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.”



marital property evenly between the parties. *Bleuer v. Bleuer*, 59 Conn. App 167, 172, 755 A.2d 946 (2000).

The weighing of these factors and the ultimate decision regarding distribution of assets and alimony is left to the broad discretion of the court. *Casey v. Casey*, 82 Conn. App. 378, 383, 844 A.2d 250 (2004). This discretion “reflects the sound policy that the trial court has the unique opportunity to view the parties and their testimony, and is therefore in the best position to assess all of the circumstances surrounding a dissolution action, including such factors as the demeanor and the attitude of the parties.” *Desai v. Desai*, 119 Conn. App. 224, 237-38, 987 A.2d 362 (2010).

The criteria for property orders are substantially like those for alimony. Compare General Statutes § 46b-81 (c) to General Statutes § 46b-82 (a). The court is not required to afford the same weight to each factor, however. *Calo-Turner v. Turner*, 83 Conn. App. 53, 62, 847 A.2d 1085 (2004). Nor must the court make express findings as to each factor. *Caffe v. Caffe*, 240 Conn. 79, 82-83, 689 A.2d 468 (1997). It is sufficient that the court’s factual findings indicate that the above factors were considered and that the evidence supports the equity of the division. See *Greco v. Greco*, 70 Conn. App. 735, 740, 799 A.2d 331 (2002).

“The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.” General Statutes § 46b-81 (c). Provided the court considers all relevant statutory criteria, it may exercise broad discretion in dividing property. See *Coleman v. Coleman*, 151 Conn. App. 613, 617, 95 A.3d 569 (2014). “[T]he trial court may place varying degrees of importance on each criterion according to the factual circumstances of each case.” (Internal quotation marks omitted.) *Keller v. Keller*, 167 Conn. App. 138, 154, 142 A.3d 1197, cert. denied, 323 Conn. 922, 150 A.3d 1151 (2016).

After considering the evidence in light of the applicable law, the court determines that a slight unequal division of the marital asset, namely the proceeds from the sale of the property, is warranted, weighted in favor of the Wife. In terms of age, station, employability, ability to earn in the future, the parties are similarly situated. Both parties are healthy, and although Husband is currently unemployed, the court finds that they are each experienced in their respective fields of work. Husband did not provide any evidence that he is permanently unable to work. Therefore, the court finds that Husband and Wife can support themselves in the future. Their contributions to the marital estate and to the viability of the marriage were, however, slightly unequal.

Significant to the court is that, for a meaningful period, Wife was required to carry the financial responsibility for the Main Street property alone. From the time Husband left the home and ceased his contribution to the household expenses from December 2021, leaving Wife to continue to pay all household expenses until the property was sold on December 12, 2022. Wife paid all the expenses and also prepared the home for sale. Husband testified credibly that he stayed away because he was dealing with his substance abuse issues and that he was afraid of Wife's threat of going to the police to make what he believed to be false accusations of abuse. Nevertheless, he contributed nothing to the maintenance of the marital home for almost a year. As a result, Wife contributed a greater share to the preservation of the marital home toward the end of their marriage. Wife testified credibly that if she did not make the effort to pay the mortgage and the other expenses of the home, the home could have faced foreclosure proceedings. In reaching its decision, the court has considered the credibly testimony of the parties regarding the amount of money and sweat labor they have each put into the marital home before and after the marriage. The court has equally considered that Husband was primarily responsible for the breakdown of the

marriage. Given his relapse in drug use and the use of his own funds to support his drug use were all contributing factors in the breakdown of the marriage.

The court notes, however, that the property distribution orders below are not intended to reimburse or compensate the parties for their respective financial contributions or costs during the marriage, but instead reflect an equitable distribution of the parties' current assets based upon the court's consideration of the evidence presented and weighing of the statutory factors.

As for alimony, neither party has asked for it to be ordered and the court concludes that none is warranted upon consideration of the statutory factors. Particularly when considering that Wife waived any claim to alimony and Husband did not appear to the dissolution proceedings on July 28, 2023, to make a claim.

In this case, the court has considered the parties' marital real estate acquisition, the contribution of each party, and preservation of the marital residence, along with other statutory considerations.

#### ORDERS

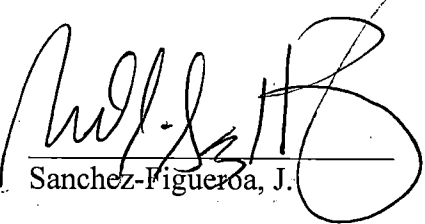
1. Neither party shall pay alimony to the other party.
2. The parties' assets and liabilities are distributed as follows:
  - a. Escrow for Sale of Main Street home:
    - i. Wife shall receive fifty-seven percent (57%) of the escrow balance.
    - ii. Husband shall receive forty-three percent (43%) of the escrow balance.
    - iii. From Husband's share, an additional \$10,000 shall be paid to Wife for the reimbursement of the \$10,000 she paid Husband when he signed the quit claim deed on October 24, 2022.

- iv. Wife has already received \$30,000 as a partial disbursement from the net proceeds of the sale of Main Street property. Husband has received \$10,000 as a partial disbursement from the net proceeds of the sale of Main Street property.
- b. Bank and Investment Accounts:
  - i. Wife shall retain all bank accounts in her name, free of any claim by Husband.
  - ii. Husband shall retain all bank accounts in his name, free of any claim by Wife.
- c. Retirement Accounts:
  - i. Wife shall retain all retirement accounts in her name and listed on her financial affidavit, including the Empower 401(k)-account.
  - ii. Husband shall retain all retirement accounts in his name.
- d. Each party shall retain their own credit accounts, be responsible for their own debts, and shall hold the other harmless for the same. Joint debts, if any, shall be paid equally by the parties.
- e. Each party shall retain their own personal property in their respective possession.
- f. Wife shall retain 2006 Toyota Matrix vehicle free and clear of any claim from Husband.
- g. Wife shall retain and have exclusive possession of the real property listed on her financial affidavit located at 32 Wolcott Drive, Wolcott, Connecticut, and shall be solely responsible for all costs associated with this property.

3. Except as otherwise set forth in these orders, each party shall retain those assets in his or her name listed in their respective financial affidavits.
4. Each party shall be responsible for their own life and medical insurance.
5. Each party shall be responsible for their own attorney's fees.
6. These orders shall be deemed part of the court's judgment of dissolution.

SO ORDERED.

BY THE COURT,



Sanchez-Figueroa, J.