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No. 15-2079

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN RE THE MARRIAGE OF: GEBREHIWOT ABREHET,	) Appeal from the Circuit Court of ) Cook County, Domestic Relations ) Division
Petitioner-Appellee,	)
v.	) No. 11-D-3029
	)
ANDEBRHAN ANDEMICHAEL,	) Honorable Karen J. Bowes, ) Judge Presiding
Respondent-Appellant.	)

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JUSTICE SIMON delivered the judgment of the court.  
Justices Harris and Mikva concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not abuse its discretion when distributing the parties' marital property. Respondent-husband abandoned his motion to enforce a post-nuptial agreement.

¶ 2 Petitioner Gebrehiwot Abrehet ("Wife") filed a petition for dissolution of a marriage to the Respondent Andebrhan Andemichael ("Husband"). The circuit court entered a judgment of dissolution of marriage and divided the parties' marital assets. Husband appeals the circuit court's judgment arguing that: (1) the court erred by failing to rule on Husband's motion to enforce one of the parties' postnuptial agreements; (2) the court abused its discretion when

distributing the marital assets, and (3) the court erred when ordering the transfer of certain taxicab medallions to Wife. For the following reasons, we affirm.

¶ 3 BACKGROUND

¶ 4 The parties were married on May 2, 1982, in Sudan, Africa. On March 24, 2011, Wife filed a Petition for Dissolution of Marriage from Husband. The parties had four children, all of whom reached the age of majority and none were under any disability when the divorce proceedings commenced.

¶ 5 On March 14, 2011, Husband filed a "Motion for Declaration Judgment and Other Relief." The motion sought to enforce an agreement executed by the parties on May 14, 2009. The document titled "A judicial declaration dissolving the marriage" stated that the Wife "had come in [sic] to position of owing A. \$300,000.00, B. Taxicab, medallion number 5273, and C. A three unit [a]partment [sic] located at 6439 N. Claremont, Chicago, Illinois with all household materials." The agreement further indicated that Wife could not be "provided with less or more wealth" from Husband.

¶ 6 In turn, Wife filed a "Response to Motion for Declaration Judgment and Other Relief," where she contended that the 2009 agreement was subsequently modified by another agreement, which, unlike the previous one, accounted for their entire marital property. Indeed, the document dated March 2, 2011, and titled "Agreement to Divide Property" provided for completely different distribution of the parties' marital assets. The document stated that the Claremont property would be sold and proceeds were to be divided equally between the parties. Another property located at 4912-18 N. Clark Street in Chicago would be split by the parties, and if sold, the proceeds would be divided equally between the parties. The agreement further provided that

Husband would receive 4 of the 7 taxicab medallions that the parties acquired during their marriage, while Wife would receive 3 of them.

¶ 7 Following the parties' arguments on the motion, the trial court entered an order holding that "the testimony and evidence related to the validity of the purported Agreements in [sic] so intertwined with the ultimate questions of fact related to the trial of the matter, that judicial economy is best served by abating today's proceedings so that they may be considered and heard with the trial previously set for October 23, 24, 27, 28 and 31, 2014."

¶ 8 Before trial, the parties stipulated that during the marriage they acquired the following marital property:

- a. Real estate located at 6439 N. Claremont, Chicago, Illinois ("Claremont property");
- b. Real estate located at 4912-18 N. Clark, Chicago, Illinois ("Clark property");
- c. Real estate located at 7447 N. Kildare, Skokie, Illinois ("Kildare property");
- d. Seven Chicago taxicab medallions and seven taxicabs operating under the taxicab medallions. The taxicab medallions are identified by the following numbers: (i) 2831; (ii) 1985; (iii) 761; (iv) 1195; (v) 5708; (vi) 4909; (vii) 5273;
- e. Wife's vested pension with Teamsters Union Local 727;
- f. Two life insurance policies with New York Life Insurance Company;
- g. 2006 Kia Optima, 2005 Chevrolet Aveo, and two Toyota 4-Runners.

¶ 9 Following a bench trial, the court entered a judgment for dissolution of marriage and divided the marital property as follows: the Clark and the Kildare properties were ordered to be listed for sale and the proceeds divided equally between the parties. Until its sale, Husband was allowed to collect rents from the tenants on the Clark property and pay half of the monthly net

income to Wife. Wife was allowed to reside at the Kildare property until its sale while paying all utilities, taxes, insurance, and maintenance of the property.

¶ 10 The court noted that the Claremont property was in foreclosure and that Wife was entitled to collect the rent until the property is foreclosed, under the condition that she pays all the associated expenses of that property. The court divided the parties' taxicab medallions by awarding Wife medallions 5273, 4909, and 5708 along with the taxicabs operating with those medallions. The Wife would be responsible for payments of the liens on all three medallions and she would also be responsible for the payment of the Toyota Financing loan on the taxicab associated with medallion 5273.

¶ 11 Husband was awarded medallions 2831, 1195, 761 and the taxicabs operating with those medallions while being responsible for the payment of liens on two medallions. The court ordered medallion 1985 listed for sale and that the net proceeds obtained to be divided equally between the parties. Wife was awarded her pension, while Husband received the parties' only unencumbered taxicab medallion. Each party was awarded the life insurance policy held in his/her name.

¶ 12 Husband filed a motion for reconsideration which the trial court denied. This appeal follows.

¶ 13 ANALYSIS

¶ 14 Husband argues that the court committed reversible error by failing to rule on his "Motion for Declaration Judgment and Other Relief," where he requested the court to enforce the "parties' postnuptial agreement" dated May 14, 2009. Husband asks that the case be remanded to the circuit court for enforcement of the provisions of that agreement.

¶ 15 The party filing a motion has the responsibility to bring it to the trial court's attention and have it resolved. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 512 (2001). Unless there is some indication to the contrary, where no ruling has been made on a motion, we will presume that the motion was waived or abandoned. *Id.* at 512-13.

¶ 16 Here, the judgment for dissolution of marriage entered by the court does not reflect a disposition of the motion. Husband did not press the trial court for a ruling either at trial or in his posttrial motion to reconsider. Husband's failure to pursue the motion to enforce the 2009 agreement during the proceedings at trial or after supports and confirms the presumption that he abandoned his request. See *Twardowski*, 321 Ill. App. 3d at 512-13. "Unless it appears otherwise, where no ruling appears to be made on a motion, the presumption is that the motion was waived or abandoned." *Prather v. McGrady*, 261 Ill. App. 3d 880, 885 (1994). Our conclusion is strengthened by Husband's own testimony at trial. Husband testified that he and Wife had an agreement in 2009 but then stated that "[s]he asked me to give her more. I say [sic] okay," indicating that their 2009 agreement was subsequently modified and superseded, most likely by the 2011 agreement. The record further indicates that the parties agreed that the 2011 agreement was null and void and the court properly proceeded to divide the marital property. Based on this record, we find that Husband abandoned his motion to enforce the 2009 agreement.

¶ 17 Husband argues next that the trial court's distribution of the parties' marital assets was not equitable. Pursuant to section 503(d) of the Illinois Marriage and Dissolution of Marriage Act, marital property must be divided in "just proportions." 750 ILCS 5/503(d) (West 2012); *In re Marriage of Callahan*, 2013 IL App (1st) 113751, ¶ 21. The touchstone of apportionment of marital property is whether the distribution is equitable and each case rests on its own facts. *In*

*re Marriage of Jones*, 187 Ill. App. 3d 206, 222 (1989). The division need not be mathematically equal to be equitable. *In re Marriage of Tietz*, 238 Ill. App. 3d 965, 979 (1992). We will not disturb a trial court's division of marital property unless an abuse of discretion is shown. *Id.* A trial court does not abuse its discretion unless, in view of all of the circumstances, its decision so exceeded the bounds of reason that no reasonable person would take the view adopted by the trial court. *Id.*

¶ 18 Applying these principles, the circuit court did not abuse its discretion in dividing the parties' marital assets. The record illustrates the court evaluated the circumstances of the parties and all the evidence presented when dividing the agreed-upon marital property. To that effect, the court awarded three taxicab medallions to Husband and three medallions to Wife. The seventh cab medallion was ordered to be sold with proceeds divided equally between the parties. Each party was required to pay the liens associated with their awarded medallions. One of the taxicab medallions awarded to Husband was free and clear of any liens. The court awarded Wife her pension as an off-set for the lien-free medallion awarded to Husband.

¶ 19 The parties' Kildare and Clark Street properties were ordered to be promptly sold with net proceeds to be divided equally between the parties. The parties' apartment building on Claremont had been in foreclosure for a substantial period of time, and the court allowed Wife to collect rent on that property until the foreclosure proceedings would end while paying for insurance, utilities and routine maintenance for the property. However, the court recognized that it would be a very short period collecting rent from this property. Each party was awarded the life insurance policy held in his/her name.

¶ 20 Husband claims that the trial court unfairly ordered him to pay certain loans associated with taxicab medallions 4909 and 5708, medallions awarded to Wife. That is a misleading and

incomplete statement. The trial court ordered that Wife "shall be responsible for payments of the liens with Progressive Union on all three medallions and she shall be responsible for payment of the Toyota Financing loan on the taxicab associated with medallion 5273." The court noted that Husband was responsible for any loans, if any, of the *taxicabs* associated with the medallions except for the taxicab associated with medallion 5273.

¶ 21 The court's decision was supported by the evidence at trial. Specifically, Husband testified that there were no loans on the taxicab operating under the medallion 4909. In regards to the taxicab operating under medallion 5708, Husband testified that, two months prior to trial, he was involved in a "big accident" and that he took a loan from his brother's son to buy a new taxicab. When the court inquired about the total amount of the loan and the monthly payment associated with that loan, Husband replied that he did not start making payments on that loan nor could he accurately state the amount of the loan. Based on this record, the trial court's decision to order Husband to pay the two loans on the taxicabs, if any, was not against the manifest weight of the evidence. In other words, we cannot say that no reasonable person would take the view adopted by the circuit court in distributing the marital property on an essentially equal basis given the amount and nature of the marital property. We accordingly hold that the trial court did not abuse its discretion in apportioning the marital property of the parties.

¶ 22 Husband insists that the court failed to account for \$300,000 that was deposited into a bank account that Wife had control over. But the testimony at trial revealed that the parties used the money to purchase the Kildare property. The court ordered the Kildare property to be sold and the proceeds divided equally between the parties. In addition, the parties stipulated as to their marital assets and there was no inclusion of a missing \$300,000 amount. Also, there was no claim for dissipation of \$300,000 presented in the circuit court.

¶ 23 Similarly, Husband contends that the court failed to account for the three years of rent collected from the Claremont property. But the parties' stipulation of their marital assets did not include the rents collected for the Claremont property, just as it did not address the rents collected by Husband prior to trial for the Clark property and for the six taxicabs that he was managing during the marriage. Clearly, the court did not fail to account for something that both parties agreed was not at issue.

¶ 24 Husband also claims that Wife unfairly benefitted because she was allowed to remain in the Kildare property which had no mortgage. However, the court specifically stated that she would be allowed to temporarily live there until the property sold and if she pays all the expenses on the property. Moreover, Husband did not indicate that he wanted to reside at the Kildare property. To the contrary, during closing arguments Husband contended that he "would like there to be a division of the property that would allow [Wife] to reside in the Kildare property where she and some of their adult children live."

¶ 25 Husband also contends that he should have been awarded maintenance. The record indicates that Husband did not seek maintenance at trial. There was no evidence indicating Husband's inability to earn income or any specific evidence of family or personal expenses. Therefore, respondent did not establish that he does not have the financial resources to meet his needs. See *In re Marriage of Hart*, 181 Ill. App. 3d 1066, 1068 (1989) (maintenance awards should not be based on speculation, but rather on the circumstances disclosed by the evidence).

¶ 26 Finally, Husband argues that the court erred by ordering the transfer of taxicab medallions from Husband to Wife. Husband contends that the court failed to address the fact that certain corporations were holding the title of some of the medallions and they were not made parties to the divorce proceedings. Husband maintains that court ordered transfer of the



medallions was made "without regard for the Chicago Municipal Code and the Taxicab Medallion License Holder Rule and Regulations" when every transfer is subject to approval of the "department."

¶ 27 The doctrine of waiver precludes consideration on appeal for issues not raised in the trial court. *In re Marriage of Minear*, 181 Ill. 2d 552, 564 (1998). The waiver principle encourages the parties to raise issues before the trial court, allowing the court to correct its own errors and consequently disallowing the parties to obtain a reversal through inaction. *People v. Herron*, 215 Ill. 2d 167, 175 (2005). It is improper to raise a new issue in a motion for reconsideration. *Evanston Insurance Co. v. Riseborough*, 2014 IL 114271, ¶ 36.

¶ 28 Husband failed to raise these arguments at trial, so therefore, they are now waived. While he presented some of these issues in his motion to reconsider, it was insufficient to preserve the issues for appeal absent his objections at trial. See *Evanston Insurance Co. v. Riseborough*, 2014 IL 114271, ¶ 36. Therefore, the mechanics of how exactly the transfer of the marital property, as ordered by the court, can be accomplished is not properly before us.

¶ 29 CONCLUSION

¶ 30 Based on the foregoing, we affirm.

¶ 31 Affirmed.