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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> MARRIAGE OF PADMASREE ANNE,)	Appeal from the Circuit Court of Kane County.
)	
Petitioner-Appellee,)	
)	
and)	No. 13-D-1002
)	
RAMESH ANNE,)	Honorable
)	Katheryn D. Karayannis,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE McLAREN delivered the judgment of the court.
Presiding Justice Schostok and Justice Spence concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's valuation of the wife's retirement account was not against the manifest weight of the evidence where it was based on the only evidence presented; the trial court's valuation of the parties' home was not against the manifest weight of the evidence where it was based on testimony and evidence of the sale of a comparable property; the husband failed to establish that the trial court abused its discretion in its distribution of marital property; the trial court did not abuse its discretion by denying the husband maintenance where the trial court awarded the parties approximately equal shares of marital property and the husband had other assets and income from rental property. Trial court affirmed.
- ¶ 2 On December 30, 2014, the circuit court of Kane County entered judgment of dissolution of marriage from which neither petitioner, Padmasree Anne, nor respondent, Ramesh Anne,

appeal. On January 15, 2015, the court entered a supplemental judgment regarding the distribution of marital property. Subsequently, the court denied Ramesh's motion to reconsider. On appeal, Ramesh argues that (1) the trial court erred in its valuation of Padmasree's SERS retirement account, (2) the trial court erred in its valuation of one of the parties' homes, (3) the trial court's distribution of marital property was inequitable, and (4) the trial court erred by failing to award Ramesh maintenance. We affirm.

¶ 3

I. BACKGROUND

¶ 4 The following facts are taken from the certified bystander's report and the undisputed facts contained in the record. The parties married in 1992 in India and on July 30, 2013, Padmasree filed a petition for dissolution of marriage. Padmasree and Ramesh had resided in Illinois for approximately 20 and 32 years, respectively. The parties had lived separately for more than two years. At the time Padmasree filed her petition, she was 52 years old and Ramesh was 58 years old; they had one 18-year-old child. Padmasree worked as an information systems analyst for the Illinois Department of Children and Family Services. Ramesh worked as a machine operator for Fellowes.

¶ 5 A trial took place on December 29 and 30, 2014. The trial court entered judgment of dissolution of marriage on December 30, 2014. All issues concerning property distribution were continued for entry of a supplemental judgment, which was entered on January 15, 2015. No court reporter was present at the trial; therefore, these facts are taken from the certified bystander's report and the record on appeal.

¶ 6 Padmasree testified as follows. Padmasree's "income was approximately \$100,000 because of overtime she had received in the year prior to the divorce." However, overtime was not guaranteed and could change, and without overtime, her income was much less. Padmasree testified that she had "contributed \$40,000 to date of trial" to her SERS retirement account.

¶ 7 Padmasree testified that the parties owned a three-bedroom, two-bath, single-family home at 29 Autumn Lane in Streamwood, Illinois (the Streamwood property). This home was an investment property. When the parties separated, Ramesh moved into the Streamwood property. Ramesh received rental income from the Streamwood property. The value of the Streamwood property was similar or identical to a property across the street, which sold for \$215,000. Padmasree presented and the trial court admitted into evidence “Petitioner’s Exhibit 4.” This exhibit showed that 28 Autumn Lane, a three-bedroom, two-bath, single-family house, sold for \$215,000 in March 2014. Padmasree also testified that she had not been in the house across the street in almost ten years and had no knowledge of the interior of the home. The parties also owned two properties in India; (1) four acres of agricultural land; and (2) a residence. Padmasree considered the agricultural land marital property because \$17,000 of marital assets went toward paying the mortgage and expenses for this property. Padmasree presented government tax documents that placed a value on both properties in India. Padmasree had contributed significantly to the educational expenses of the parties’ son, who attended the University of Illinois at Chicago, without assistance or contribution from Ramesh, although she sought reimbursement from Ramesh.

¶ 8 The parties’ adult son testified that he saw tenants in the Streamwood property and that they paid rent to Ramesh.

¶ 9 Ramesh testified as follows. Ramesh wanted to keep the Streamwood property and “offered opinion that the property was worth approximately \$158,000.” Others lived in the Streamwood property, and he accepted rent from them. Ramesh lived in an apartment closer to his work and sometimes he lived out of his car because he had rented out the Streamwood property and his apartment to others. Ramesh had two retirement accounts at his place of employment with approximately \$145,000 and \$296,000 in value. These amounts were

established in Ramesh's financial statement. Ramesh's annual income from his employment was approximately \$50,000.

¶ 10 During closing argument, Ramesh's attorney requested the following relief: (1) the "Streamwood property be awarded to [Ramesh], and that the value be set at \$158,000.000"; (2) Ramesh "should be bought out of the equity in the Indian residence that was being awarded to [Padmasree]"; (3) Ramesh "should be awarded the Indian agricultural property"; (4) "[t]he marital portion of the parties' retirement accounts, whatever their actual value, should be split equitably *** with the parties receiving appropriate off-sets for the Streamwood property and Indian residence"; (5) Ramesh "should not be required to contribute to college expenses"; and (6) Ramesh "should be awarded a disproportionate amount of property and debt in lieu of maintenance."

¶ 11 On January 15, 2015, the trial court entered a "Supplemental Judgment of Dissolution of Marriage" addressing non-marital and marital property, stating as follows. Regarding the property located at 29 Autumn Lane in Streamwood, Illinois [the Streamwood property], the court found the fair market value to be \$214,000 and awarded that property, its equity, and possession to Ramesh. The trial court provided that Ramesh had 12 months from the date of judgment to refinance the property to remove Padmasree's name from any obligations associated with the property and that if he failed to do so, the property would be sold. If Ramesh fell more than 60 days in arrears on the mortgage payment or any other legal obligation in association with the property, Padmasree could seek the immediate listing for sale of the property. The trial court found that there was a \$92,000 obligation outstanding on the property and that the marital portion of the property was \$122,000, with each party entitled to one-half of that amount. As long as Ramesh honored his obligations, he would be allowed to buy out Padmasree's interest in the property.

¶ 12 The trial court also found that four acres of agricultural land in India was Ramesh's non-marital property and awarded it to Ramesh.

¶ 13 Regarding a residence in India, the trial court found the value to be \$36,500 and the outstanding mortgage to be \$19,333, with an equity of approximately "\$17,000, which would be split equally between the parties." However, the trial court awarded this India residence to Padmasree and assessed a credit against her marital portion of the Streamwood property "for this equity."

¶ 14 The trial court stated: "As a credit against the amount owed to [Padmasree] for the Streamwood property, she is awarded her SERS retirement account in full." The trial court placed "a value on this retirement account at \$40,000, which was the testimony before this Court." The trial court ordered the marital portion of Ramesh's "Fellowes IRA account" to be "split equally between the parties." The trial court also ordered that "the marital portion of" Ramesh's ESOP plan maintained through Ramesh's employer, Fellowes, be split equally between the parties, with an additional \$31,000 contribution of Ramesh to be distributed to Padmasree. Regarding the parties' 20-year-old son and his college expenses, the trial court encouraged the "parties to voluntarily contribute towards his college expenses as best they can." The trial court ordered each party to pay "whatever debt they have incurred" and to split the Cook County Housing Authority debt of approximately \$19,000.

¶ 15 Regarding maintenance the trial court stated: "[T]his Court finds that the distribution in this case is in lieu of any potential maintenance claim by either party. As a result, maintenance is barred to either party. This Court makes a specific finding that both parties are employable and able to financially support themselves."

¶ 16 On February 13, 2015, Ramesh filed a motion to reconsider and to reopen proofs. On July 27, 2015, the trial court denied Ramesh's motion. On August 14, 2015, Ramesh filed a notice of appeal.

¶ 17 II. ANALYSIS

¶ 18 A. Alleged Trial Errors

¶ 19 1. SERS Retirement Account Valuation

¶ 20 Ramesh argues that the trial court erred by valuing Padmasree's SERS retirement account at \$40,000. Ramesh argues that the valuation is against the manifest weight of the evidence because the trial court ignored that the SERS retirement account was a defined benefit plan, with a future monthly benefit of \$2,520.

¶ 21 The valuation of marital assets in a dissolution of marriage proceeding is a question of fact that will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re Marriage of Wojcik*, 362 Ill. App. 3d 144, 151-51 (2005). Here, the only testimony before the trial court regarding the value of Pamasree's SERS retirement account was her testimony that she had contributed approximately \$40,000 into that account. Ramesh offered no evidence or argument regarding any other value. Accordingly, we cannot say that the trial court's finding regarding the valuation of Padmasree's SERS retirement account is against the manifest weight of the evidence.

¶ 22 Next, Ramesh argues, for the first time on appeal, that the trial court should have applied the *Hunt* formula, or the reserved jurisdiction approach, instead of applying the total offset approach.

¶ 23 Illinois courts have adopted two approaches to awarding unmatured pensions: the reserved jurisdiction approach, or *Hunt* formula, and the total offset approach. Under the reserved jurisdiction approach, originally set out in *In re Marriage of Hunt*, 78 Ill. App. 3d 653,

663 (1979), the trial court reserves jurisdiction to divide the pension “‘if, as[,] and when’ the pension becomes payable.” *Id.* At that time the marital portion of a pension benefit is calculated by dividing the total years of credited service during the marriage by the total years of credited service (the marital interest percentage) and multiplying this fraction by the monthly benefit. *Id.* Under the total-offset approach, the trial court determines the actual value of the pension, discounts it for the risk that the pension will not vest, and discounts it again to its present value. *In re Marriage of Peters*, 326 Ill. App. 3d 364, 370 (2001). The trial court then awards the pension to the employee spouse, and awards the other party enough marital property to offset the pension award. *Id.* at 370.

¶ 24 Ramesh argues for the first time on appeal that “the *Hunt* formula afforded the Court an obvious and simple remedy, requiring no new evidence, and curing a substantial injustice to [Ramesh].” However, arguments not raised before the trial court are forfeited and cannot be raised for the first time on appeal. *Mabry v. Boler*, 2012 IL App (1st) 111464, ¶ 15. The record on appeal suggests no reason to relax the rule in this case. Our review of the record reveals that Ramesh failed to argue, either during the hearing or in his motion to reconsider, that the trial court should apply the *Hunt* formula or reserved jurisdiction approach. During the hearing, Ramesh offered no evidence or argument regarding Padmasree’s SERS retirement account. Further, Ramesh argued in his motion to reconsider that the total-offset approach was appropriate but that the trial court erred because it needed “actuarial evidence to determine the present value of the pension.” Because Ramesh failed to raise the argument in the trial court regarding the *Hunt* formula or the reserved jurisdiction approach, Ramesh has forfeited this issue for review.

¶ 25 2. The Streamwood Property

¶ 26 Ramesh also argues that the trial court erred by valuing the Streamwood property at \$214,000. Ramesh contends that the trial court’s valuation was improperly based on the

impeached testimony of Padmasree, who testified that a house located near the Streamwood property on Autumn Lane sold for \$215,000 in March 2014, but testified during cross examination that she had not been in that house in almost 10 ten years and that she had no knowledge of the interior of the house. Ramesh also contends that Padmasree estimated the value of the Streamwood property at \$189,000. Ramesh concludes that the trial court had no evidence to support its valuation of the Streamwood property at \$214,000, and that its valuation was against the manifest weight of the evidence.

¶ 27 As previously noted, the valuation of marital assets in a dissolution of marriage proceeding is a question of fact that will not be disturbed on review unless it is contrary to the manifest weight of the evidence. *In re Marriage of Vancura*, 356 Ill. App. 3d 200, 203 (2005). A decision is against the manifest weight of the evidence only when an opposite conclusion is clearly apparent or when the court's findings appear to be unreasonable, arbitrary, or not based upon the evidence. *In re Marriage of Romano*, 2012 IL App (2d) 091339, ¶ 44.

¶ 28 Initially, we note that Ramesh fails to cite to the record to support his contentions regarding the valuation of the Streamwood property. Illinois Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013) requires an appellant's brief to contain argument supported by citations to the authorities and the pages of the record relied on. The failure to provide relevant citations to the record is a violation of Rule 341(h)(7) and results in waiver. *Gomez v. The Finishing Co., Inc*, 369 Ill. App. 3d 711, 723 (2006).

¶ 29 Waiver aside, the trial court's valuation of the Streamwood property of \$214,000 was supported by Padmasree's testimony and the document she presented showing the sale of a comparable home nine months before trial for \$215,000. As stated in the bystander's report, Ramesh offered only his opinion as to the value of the Streamwood property. Therefore, the trial court's valuation of the Streamwood property is not against the manifest weight of the evidence.

¶ 30 Ramesh cites *In re Marriage of Vucic*, 216 Ill. App. 3d 692 (1991), to support his argument. In *Vucic*, this court held that the wife’s testimony regarding the value of the parties’ house was not adequate to establish its value. *Id.* at 703-04. We noted that the only basis for the wife’s valuation was her testimony that an unnamed appraiser walked through the home “a few months ago” and valued it at \$200,000, and that she testified during cross-examination that she did not know how her home compared to others in the neighborhood. *Id.* at 704. In *Vucic*, the wife introduced no documentation regarding the value of the home. *Id.* at 696. However, in this case, Padmasree’s value of \$215,000 was based on documentation introduced at trial, as indicated in the bystander’s report. Further, the record reveals that the trial court based its valuation on this documentation which shows a property comparable to the property at issue. Accordingly, this case is distinguishable from *Vucic*.

¶ 31 3. Distribution of Marital Property

¶ 32 Ramesh argues that the trial court’s distribution of marital income was inequitable. Specifically, Ramesh contends the trial court’s order regarding the Streamwood property is inequitable because if he has to sell the property, he will lose any income from rent; he alone will be responsible for the costs of the sale; and, if the property sells for less than its valued amount of \$214,000, he cannot make up “his lost equity.”

¶ 33 Section 503(d) of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/503 (d) (West 2014)) requires a trial court to divide marital property “in just proportions considering all relevant factors.” The touchstone of proper and just apportionment is whether it is equitable in nature, which does not require mathematical equality. *In re Marriage of Thornley*, 361 Ill. App. 3d 1067, 1071 (2005). On appeal, a trial court’s division and distribution of marital assets will not be reversed unless the trial court clearly abused its discretion. *In re Marriage of Awan*,

388 Ill. App. 3d 204, 213 (2009). An abuse of discretion occurs only when no reasonable person would take the view adopted by the trial court. *Id.* at 213.

¶ 34 Ramesh does not dispute the trial court's finding that the Streamwood property was marital property. The trial court awarded the Streamwood property valued at \$214,000 to Ramesh and we have already determined that the trial court's valuation of the property is not against the manifest weight of the evidence. The remaining principal on the mortgage was \$92,000, and the equity in the property was \$122,000. The trial court awarded Ramesh possession of the property and its equity but ordered Ramesh to pay Padmasree her share of the equity, \$61,000. The trial court assessed credits against Padmasree's equity in the Streamwood property, \$8,500 for Ramesh's equity in the India residence, and \$40,000 for Padmasree's SERS retirement account. Essentially, the trial court gave Ramesh 12 months from the date of judgment to refinance the property to remove Padmasree's name "from any obligations associated with" the property. Ramesh offers no evidentiary support for his purely speculative arguments and offers no argument of merit indicating that the trial court abused its discretion. Accordingly, we conclude that the record does not clearly demonstrate that no reasonable person would take the view adopted by the trial court.

¶ 35 Ramesh argues that the relative ages, occupations, amounts and sources of income, educational levels, skills and employability of the parties all favor Ramesh receiving a far greater share of the marital estate than Padmasree. However, we will not reach the merits of this argument because it has not been properly presented on appeal. Ramesh fails to develop this argument, cite to the record to support this argument, or cite to authority to support this argument in violation of Illinois Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013). This court is entitled to clearly defined issues, cohesive legal arguments and citations to relevant authority. See *Mack v. Viking Ski Shop, Inc.*, 2014 IL App (3d) 130768, ¶ 17. Accordingly, this argument is forfeited.

See *id.* Waiver aside, Ramesh has given us no basis to find an abuse of discretion in the trial court's decision.

¶ 36

4. Maintenance

¶ 37 Ramesh argues that the trial court erred by failing to award him maintenance. We disagree. Section 504(a) of the Dissolution Act sets forth 12 factors for the trial court to consider in deciding whether to grant a temporary or permanent maintenance award. 750 ILCS 5/504(a) (West 2014). A trial court's decision to award or deny maintenance will not be reversed on appeal absent an abuse of discretion. *In re Marriage of Donovan*, 361 Ill. App. 3d 1059, 1062 (2005). Where an appellant claims that the trial court erred by denying maintenance, the appellant bears the burden of showing that the trial court abused its discretion. *Id.*

¶ 38 Ramesh, as appellant, bears the burden to present a sufficiently complete report of proceedings to support his contentions of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). When the record on appeal is inadequate, "the reviewing court will presume that the order entered by the trial court was in conformity with the law and had a sufficient factual basis." *Midstate Siding & Window Co. v. Rogers*, 204 Ill. 2d 314, 319 (2003).

¶ 39 Ramesh complains that Padmasree's income is greater than his and the real estate awarded to him is encumbered. However, the trial court considered the relevant factors and denied Ramesh maintenance after considering that, although Padmasree's salary was greater than Ramesh's, he had additional income from renting the parties' Streamwood property and, therefore, he was not in need of maintenance. Further, the trial court considered that it had awarded Ramesh other non-marital and marital assets, including the Streamwood property. See 750 ILCS 5/504(a) (1) (West 2014) (one of the relevant factors to be considered is "the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance"). Ramesh has failed to present anything in the record

requiring the conclusion that the trial court acted arbitrarily or without conscientious judgment. The trial court indicated that it reconsidered its order regarding maintenance, that it heard the evidence, that it found Ramesh's testimony at trial completely lacking in credibility, and that maintenance was not warranted. Ramesh points to nothing indicating that the trial court abused its discretion with respect to denying him maintenance.

¶ 40

B. Motion to Reconsider

¶ 41 Ramesh appealed from the trial court's judgment denying his motion to reconsider. However, Ramesh essentially raises only one argument regarding the trial court's denial of his motions. Ramesh contends that "[e]ven if the court erroneously read the documentary evidence at trial, the Motion to Reconsider placed before the Court sufficient facts to show that [Padmasree's] SERS [retirement] account was a defined benefit plan."

¶ 42 The purpose of a motion to reconsider is to bring to the trial court's attention newly discovered evidence not available at the time of the first hearing, changes in the law, or errors in the previous application of existing law to the facts at hand. *In re Marriage of Heinrich*, 2014 IL App (2d) 121333, ¶ 55. A trial court's decision to grant or deny a motion to reconsider will not be reversed absent an abuse of discretion. *Id.*

¶ 43 Ramesh's motion to reconsider argued that the present value of Padmasree's SERS account was \$396,864.62 as shown by an "online pension calculator employing the GATT Method," which Ramesh attached to his motion. However, Ramesh failed to establish that this purported evidence could not have been presented to the trial court during the trial before the trial court decided the issues regarding property distribution. Accordingly, the trial court did not abuse its discretion by denying Ramesh's motion to reconsider regarding this issue.

¶ 44

III. CONCLUSION

¶ 45 For the reasons stated, we affirm the trial court's order.

¶ 46 Affirmed.