IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE

FILED
1989 AUG 25 PM 3:41
CLERK & MASTER
D.C.

VALERIE LeWITT PERKINSON,

Plaintiff,

vs.

BRADLEY K. PERKINSON,

Defendant.

Number 88D-3326

132-14-68

BOOK 7957 PAGE 717

ORDER

This cause came on to be heard on August 16, 1989, before the Honorable James R. Everett, Judge of the Probate Court of Davidson County, Tennessee, upon original Complaint for absolute divorce filed by Wife, Husband's Answer and Counter-Complaint, Wife's Amended and Supplemental Complaint, and Husband's Answer to Amended and Supplemental Complaint, and after testimony of the parties and their witnesses, the Court issued a findings of fact and conclusions of law which is as follows:

> THE COURT: Well, the Court makes the following findings of fact and the conclusions of law. This is a marriage of some, almost, next month will have been seven years and no children born of this marriage. Suffice it to say I think this marriage started out on a sour note. It has not gotten that much better.
>
> I think the parties are to be commended. I think they at least tried to work this matter out. They obviously were some problems that could not be overcome. The Court will not go into the details. There has been a record made of this and there's no need to cite verse for verse the problems that occurred during this marriage. But suffice it to say the Court believes the parties have basically gone their separate ways as man and wife.
>
> It is uncontradicted that the husband has been guilty of adultery. Therefore, the Court will grant a divorce on the grounds of cruel and inhuman treatment to the wife. The Court finds that there's marital property in this marriage subject to an equitable division by this Court, being a home located at 860 Robertson Academy Drive, a Dean Witter IRA account, a savings account at Sovran Bank, two automobiles, and household furnishings.
>
> Court also finds that there are marital debts, a mortgage on the home located at 860 Robertson Academy Drive, mortgage owing on the limited partnership, Ledford Limited Partnership, and a debt on an investment by the name of Advanced Financial Systems. The Court finds that the total

marital assets or marital property totals $254,617. Total marital debts total $172,418.

Now, there's a question concerning the travel agency which the Court finds is separate property that was owned by the wife prior to the marriage. The Court does not find that the husband has contributed substantially to the appreciation of that travel agency. It seems to be that that is basically an operation of the wife. Basically, she and her partners were that company and without them basically the company would not have operated.

But pursuant to Tennessee Code Annotated 34-4-141, it's the Court's obligation to distribute marital property and marital debts without regard to marital fault. The Court can take into consideration several things that were listed in the statute in making the determination as to how that property should be distributed. The Court can also take into consideration the fault, if the Court deems it, that affected this relationship.

And certainly the Court in this particular case feels that the husband's conduct contributed to the breakup of this marriage and probably was the straw that broke the camel's back. I think once that had occurred, there was no question that these parties would ever reconcile as man and wife. Both of them have seemed to say there was not.

The Court is going to make the following distribution of marital property. The Court is going to award the home located at 860 Robertson Academy Drive to the wife as her sole and separate property. The Court is going to order that she be responsible for any indebtedness owing on that home. The Court is going to award the 1988 BMW automobile to the wife. It's the Court's understanding that it is free and clear. The Court is going to award the 1984 Volvo automobile to the husband.

The Court is going to award each party the household furnishings and personal property that they have in their possession as their sole and separate property subject to Exhibit No. 12 which was introduced. The Court is going to allow the husband to have those items that are marked in blue. I think everybody knows what we're talking about, but if that needs to be listed separately, we can do that in the decree.

The Court is going to award the wife the Dean Witter IRA account and the wife's savings account at Sovran Bank. Any amount in the checking account in the wife's name, the Court is going to award her. The Court is going to order that the wife receive the Ledford Limited Partnership and Advanced Financial Systems, but that she be responsible for any indebtedness owing on those. One is a tax shelter and one is just an investment. It's the Court's understanding that the Franklin Investment Group has been paid off.

The Court is going to order that the wife pay to the husband the sum of $12,500. She will have one year from the date of the final decree to pay the husband that sum. That is a division of property for income tax purposes. That is not alimony.

The Court is going to order that each person be responsible for their own attorney's fees. The Court will assess the costs against the Defendant husband. The Court is going to order the Court Reporter type up the Court's finding of fact and conclusion of law for the Court's signature. And the Court is also going to order that the Court Reporter furnish a copy of that to Mr. Butler and Ms. Phillips for their drafting of this final decree in this cause. There was some mention of the wife wanting her maiden name back.

MR BUTLER: That's correct, Your Honor.

THE COURT: The Court will restore her maiden name.

MR. BUTLER: Thank you, Your Honor.

THE COURT: All right.

(Court was then adjourned).

IT IS THEREFORE ORDERED by the Court that Wife be awarded an absolute divorce on the grounds of cruel and inhuman treatment and she is restored to all the rights and privileges of an unmarried person. Husband's Counter-Complaint is dismissed.

IT IS FURTHER ORDERED by the Court that the Court finds that the parties' marital property consists of a home, an IRA account, a savings account, two automobiles, and household furniture valued at $254,000.00; and that the marital debts of the parties consist of the home mortgage, the limited partnership, Ledford Properties, and Advanced Financial Systems totalling $172,418.00. Further, that the travel agency stock owned by Wife is separate property owned by her prior to the marriage and that Husband did not substantially contribute to the increase in any value of the stock.

IT IS THEREFORE ORDERED by the Court that Wife be and she is hereby granted all right, title and interest to her stock in the travel agency with Husband having no interest therein.

IT IS FURTHER ORDERED by the Court that Wife is awarded all right, title and interest to the home place or real property and she shall be responsible for all indebtedness thereon.

IT IS FURTHER ORDERED by the Court that Wife is awarded all right, title and interest to her 1988 BMW automobile as her sole and separate property.

IT IS FURTHER ORDERED by the Court that Husband is awarded his 1984 Volvo as his sole and separate property and he shall be responsible for all indebtedness thereon.

IT IS FURTHER ORDERED by the Court that each party will retain their household furniture, furnishings and fixtures that they have in their possession except the items marked by Husband on Exhibit 12, which is attached hereto.

IT IS FURTHER ORDERED by the Court that Wife is entitled to all right, title and interest to her IRA account and savings account.

IT IS FURTHER ORDERED by the Court that each will keep all right, title and interest that they have in their own checking account.

IT IS FURTHER ORDERED by the Court that Wife is entitled to all right, title and interest to the Ledford Property and Advanced Financial Systems and she shall be responsible for all indebtedness thereon.

IT IS FURTHER ORDERED by the Court that Wife shall pay to Husband the amount of $12,500.00 for property division within a year from the date of this Order.

IT IS FURTHER ORDERED by the Court that the parties will pay their own attorney's fees.

IT IS FURTHER ORDERED by the Court that the Defendant will pay the Court costs of this cause, for which let execution issue if necessary.

IT IS FURTHER ORDERED by the Court that Wife's maiden name be restored, that is: Valerie Ann LeWitt.

IT IS FURTHER ORDERED by the Court that the property now vested in Wife to be hers absolutely is described in words and figures as follows:

> BEING part of Lot No. 3 on the Plan of John Overton's Property, of record in Plat Book 421,

page 160, Register's Office for Davidson County, Tennessee, to which plat reference is hereby made for a more complete legal description.

BEING the same property conveyed to H. O. Vincent and wife, Elizabeth B. Vincent by deed from Paul W. Schiel and wife, Ruth F. Schiel, of record in Book 2280, page 95, Register's Office for said County. The said H. O. Vincent having since died.

THIS conveyance is subject to Restrictive Covenants of record in Book 1788, page 186, Register's Office for said County.

THIS conveyance is subject to any and all existing restrictions and easements of record.

Being the same property conveyed to Bradley K. Perkinson and wife, Valerie L. Perkinson as of record in Book 6494, page 247, Register's Office for Davidson County, Tennessee.

ENTER this 24 day of Aug, 1989.

JUDGE JAMES R. EVERETT, JR.

APPROVED FOR ENTRY:

JACK A. BUTLER, 2838

ROSEMARY E. PHILLIPS, 10083

BUTLER & PHILLIPS
Attorneys for Plaintiff
23rd Floor, First American Center
Nashville, Tennessee 37238
(615) 244-3300

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing was mailed to William L. Underhill, Attorney for Husband, 607 West Due West Avenue, Suite 102, Madison, Tennessee 37115, this 23 day of Aug, 1989.

JACK A. BUTLER

Perkinson Order:ACS4/acs

BOOK 7957 PAGE 722

mail
Jack Butler, atty
23rd Floor
1st Amer Center
37238

72846

IDENTIF. TREFERENCE

Oct 10 10 06 AM '89

FELIX Z. WILSON III REGISTER
DAVIDSON COUNTY, TN.

4359 10/10 0101 03CHECK 18.00

STATE OF TENNESSEE

I, **GEORGE L. ROOKER,** *Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the Order heretofore entered in the* PROBATE *Circuit Court for Davidson County, Tennessee, on the* TWENTY-FIFTH *day of* AUGUST, *19* 89, *in Case Number* 88D-3326 *between* VALERIE LEWITT PERKINSON *Plaintiff, and* BRADLEY K. PERKINSON *Defendant, as same remains of record in Book* 50A, *Page* 273 *of the Minutes of said Court.*

IN TESTIMONY WHEREOF, *I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the* 27th *day of* SEPTEMBER *in the year one thousand nine hundred and* EIGHTY-NINTH *and in the* 214th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By Walter S. Adams *D.C.*

Form #GR-117