IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

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RICHARD ... CLERK

KAY LOVELL DRAKE)
)
)
v.) No: 96D-2215
)
HAROLD D. DRAKE)

BOOK 10728 PG 631

FINAL DECREE OF DIVORCE

This cause came on to be heard on the 15th day of September, 1997, before the Honorable Muriel Robinson, Judge of the Fourth Circuit Court for Davidson County, Tennessee, upon Wife's Complaint for Divorce and Husband's Answer thereto. The Court, after hearing testimony of the parties and the attesting witnesses and from a review of the record in this matter, orders as follows:

1. It is **ORDERED, ADJUDGED AND DECREED** that Kay Lovell Drake is awarded a divorce against Harold D. Drake on the ground of inappropriate marital conduct.

2. The Court **ORDERS** that the following real property shall be sold and the proceeds, after payment of the indebtedness if any upon the real property and cost of sale shall be split equally. The real property at 8757 Old Charlotte Pike, Pegram, Tennessee 37143; 1050 East Sears Road, Pegram, Tennessee 37143; 1047 East Sears Road, Pegram, Tennessee 37143.

3. It is further **ORDERED, ADJUDGED AND DECREED** that the mobile homes located at 1055 East Sears Road, 1051 East Sears Road, 1049 East Sears Road, and 1045 East Sears Road, Pegram, Tennessee 37143, shall be sold and the proceeds divided equally between the parties. There is no indebtedness on any of the mobile homes listed above.

4. It is further **ORDERED, ADJUDGED AND DECREED** that each will pay their own credit card debt.

5. It is **ORDERED, ADJUDGED AND DECREED** that Mr. Drake shall continue to pay the note on Wife's 1988 Chrysler New Yorker automobile. The debt being due and payable to NationsBank of Tennessee, P. O. Box 105857, Atlanta, Georgia 30348 in the monthly payment of $220.34. The Court further **ORDERS** that Husband will continue to pay Wife's car note and such will be awarded to her as alimony necessary for her support with the intent that the same is a non-dischargeable support obligation in the event of bankruptcy.

6. It is further **ORDERED, ADJUDGED AND DECREED** that Wife will be awarded one-half interest in the Husband's Public Employees Benefit Services Corporation Account, Deferred Compensation Service Center, P. O. Box 16766, Columbus, Ohio 43216, Account No: 408-82-6927. The Court **ORDERS** that the amount contained in this account shall be divided equally as of September 15, 1997. Husband shall do all things necessary to see that the account is divided equally within ninety (90) days of the entry of this order.

7. The Court further **ORDERS** that the rental income from the parties' rental trailers and house shall be equally divided between the parties at the time it is collected by Husband, whether that be on a weekly or a monthly basis, and that Mr. Drake shall keep an accounting of the rents received, the dates received, from whom and which property. The Court further **ORDERS** that the parties each will be responsible for one-half the maintenance expense on each of the rental properties and one-half of the taxes on the real properties until the same are sold. The Court further **ORDERS** that Mr. Drake shall make an accounting of these expenses and pay over to Ms. Drake each month her share of the rental income beginning October 1, 1997, with a proper accounting of the deductions made therein for repairs and taxes.

8. The Court further finds that Husband has, by virtue of his employment with the Metropolitan Government of Nashville, Davidson County, Tennessee, a pension plan. The Court finds that Harold D. Drake is a member of the Metropolitan Employee Benefit System, Division B, and as a member of such system, Mr. Drake is entitled to a pension. The Court further finds that based upon the information presently before the Court that if Mr. Drake terminates his employment as of March 31, 1997, and elected to receive a vested pension effective June 3, 2001, that he would receive approximately $1,535.00 per month pursuant to the Affidavit of James D. Luther, Executive Secretary of the Metropolitan Employee Benefit Board. The Court further finds that pursuant to T.C.A. §26-2-102 and Section 3.08.180 of the Metropolitan Code that these vested pension benefits are exempt from execution or garnishment. It is, therefore, **ORDERED, ADJUDGED AND DECREED** by this Court that Mr. Harold Drake is hereby **ORDERED** to open a joint checking account with the Metro Employees Credit Union wherein he is to request that the Executive Secretary of the Metropolitan Employees Benefit Board or any person acting as his agent, shall be directed to direct deposit the funds from his pension once he starts drawing the same directly in this

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account. The Court further **ORDERS** that Mr. Drake is to get this account in order and opened and provide notice of the same to the Executive Secretary of the Metropolitan Benefits Board and Mrs. Drake so that the same can effectuate the intent of this order. Mr. Drake shall open the account within 90 days of the entry of this decree. The Court **ORDERS** that after the money has been direct deposited into the account, then Mr. Drake is **ORDERED** to allow Ms. Drake to withdraw one-half of the proceeds therein each month.

9. It is further **ORDERED, ADJUDGED AND DECREED** that this Court finds that this is a marriage of long duration. The Court **ORDERS** that Mr. Drake shall continue to pay alimony until the time that Ms. Drake begins drawing her one-half of his pension, at which time his alimony obligation will end.

10. The Court further awards to Mr. Drake one-half of Wife's pension that is held by Springs Industries, Inc., Bath Fashions Division, P. O. Box 516, Nashville, TN 37202, in the name of Kay L. Drake, Social Security No: [redacted]-1507, and shall be more specifically set forth as follows:

I. Definitions and Declarations

a. This Order is a Domestic Relations Order which:

1) relates to the provision of the division of marital property rights to former spouse of a participant, and
2) is made to qualify under the domestic relations laws of South Carolins.

b. Participant:
1) The "Participant" is Kay Lovell Drake.

c. Alternate Payee:
1) The "Alternate Payee" is Harold D. Drake and is the former spouse of the Participant and has a right under this Domestic Relations Order to receipt all, or a portion of, the benefits payable under the Plan with respect to the Participant.

d. Earliest Retirement Age:
Pursuant to Section 414(p) of the Internal Revenue Code of 1986 (the "Code"), the "earliest retirement age" is the earlier of:

1) The date on which the Participant is entitled to a distribution under the Plan; or
2) The later of: (a) the date the Participant attains age 50, or (b) the earliest date on which the Participant could begin receiving benefits under the Plan if he/she separated from service.

The Participant will attain age fifty (50) on June 2, 2000.

II. Factual Recitals and Assignment of Retirement Benefits: The following facts have been established and are found by this Court.

a. Name, last known mailing address, date of birth and social security number of:

Participant: Kay Lovell Drake

Address: 114 Erin Lane, Nashville, TN 37221, DOB: June 2, 1950 and Social Security No: [redacted]-1507.

Alternate Payee: Harold D. Drake
Address: 8757 Old Charlotte Pike, Pegram, TN 37143, DOB: June 2, 1948
Social Security No: [redacted]-6927.

b. The Plan is the Springs of Achievement Partnership Plan of Springs Industries, Inc. and Pension Plan of Springs Industries, Inc. for Pacific Columbia Mills Plans Union Employees.

c. The amount of Participant's benefits under the Plan to be paid to Alternate Payee shall be determined as follows:

1) Fifty percent (50%) of the value of Participant's profit sharing retirement fund under the Plan on September 15, 1997.

2) Fifty percent (50%) of the value of Participant's savings funds under the Plan on September 15, 1997.

3) The Plan shall establish separate accounts or accounts as may be necessary to determine the values of benefits to be paid to Alternate Payee under this Order.

d. Amounts payable to Alternate Payee under this Order shall be payable as soon as practicable after a determination by the Plan Administrator that this Order qualifies under Section 414(p) of the Code and after Participant's earliest retirement age or earlier date if permitted under the terms of the Plan.

III. Findings Regarding Non-Alteration of Benefits

Pursuant to Section 414(p)(3) of the Code, this Order:

a. does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan, and

b. does not require the Plan to provide increased benfits, and

c. does not require the payment of benefits to the Alternate Payee which are required to be paid to another Alternate Payee under another Order previously determined to be a Qualified Domestic Relations Order.

IV. Designation of Beneficiary:

If the Alternate Payee dies before payment of benefits, assigned herein, Alternate Payee has designated that the benefits due him be paid to his children living at the time of his death in equal shares. Alternate Payee may change the designation of Beneficiaries pursuant to the Plan's forms and procedures.

V. Survivor Annuity Benefits.

a. In recognition of the amount paid pursuant to Section IIC, no survivor benefit shall be paid to Alternate Payee under the Plan.

b. The Alternate Payee as former spouse of the Participant hereby consents to any election by the Participant to waive the joint and survivor annuity under the Plan pursuant to Section 417(a)(2) of the Code, provided however, this consent shall not affect the amount of the benefits assigned to the Alternate Payee pursuant to Section IIC hereof.

VI. Miscellaneous Provisions.

a. It is intended that this Order will qualify as a Qualified Domestic Relations Order under the laws of the State of South Carolina and under the Retirement Equity Act and the Internal Revenue Code of 1986, and this Order shall be administered and interpreted in conformity with said Acts.

b. The Fourth Circuit Court of Davidson County, Tennessee retains jurisdiction to amend this Order, but only for the purpose of establishing or maintaining its qualification as a Qualified Domestic Relations Order under the Retirement Equity Act, the Tax Reform Act of 1986, and the Code of South Carolina, provided that no such Amendment shall require the Plan to provide any type of form of benefit, or any option, not otherwise provided under said Plan, and further provided that no such amendment or the right of the Court to amend will invalidate this Order as "qualified" under said Act.

c. A true copy of this Order shall be served upon the Plan Administrator, who shall then determine whether this Order is a Qualified Domestic Relations Order in accordance with the provisions of the Plan and the Code.

d. The Court retains jurisdiction to supervise and enforce the payment of benefits, as provided herein, making any and all necessary modifications hereto to reasonably insure that the Alternate Payee received full payment of the benefits assigned to him by the terms of this Order subject to the requirements of the Retirement Equity Act, the Tax Reform Act of 1986, and the Code.

11. It is **ORDERED, ADJUDGED AND DECREED** that Husband shall continue to pay Wife alimony in futuro in the amount of $300.00 per month until her death or remarriage or until he begins drawing his pension and Ms. Drake begins to receive one-half of that pension which will be in the approximate amount of $767.57 per month, beginning June 3, 2001.

12. It is further **ORDERED, ADJUDGED AND DECREED** that J. Donald Turner is appointed by this Court as the appraiser of the real properties ordered sold previously by the Court. It is further **ORDERED, ADJUDGED AND DECREED** that Harold Drake shall be responsible for paying the costs associated with the appraisals directly to Mr. Turner.

13. The Court further finds that upon the completion of the appraisals and notification to counsel for the parties, that the Court will allow Mr. Drake, if he so desires, to buy Wife's interest in a single lump sum payment for her one-half of the equity therein.

14. The Court further finds that the real estate appraiser cannot make an appraisal on the

trailers. Therefore, the Court **ORDERS** that the parties shall attempt to select an appraiser to appraise the trailers so that the parties can agree thereon as concerns the sale.

15. It is further **ORDERED, ADJUDGED AND DECREED** that Mr. Drake has sixty (60) days to get the appraisals done and to attempt to buy Wife's equity out of the real properties and trailers. In the event this is not done, then the same shall be sold by authority of the Court.

16. It is further **ORDERED, ADJUDGED AND DECREED** that Mr. Drake shall pay D. Scott Parsley the amount of $1,200.00 of Wife's attorney's fees, which amount shall be reduced to judgment for which let execution issue if necessary.

17. The Court further **ORDERS** that the balance of D. Scott Parsley's attorney's fees in the amount of $4,279.07 shall remain a lien against her share of the assets.

18. It is further **ORDERED, ADJUDGED AND DECREED** as concerns Wife's consolidation note in the amount of $155.13, the Court **ORDERS** that each party will pay one-half of this note each and every month. The Court **ORDERS** both parties to make the minimum payment on the consolidation note. Each party will pay their one-half of this note directly to the holder of the note.

19. It is further **ORDERED, ADJUDGED AND DECREED** that the costs of this cause are assessed against Harold Drake, for which let execution issue if necessary.

20. The addresses of the parties are as follows:

Kay L. Drake
114 Erin Lane
Nashville, TN 37221

Harold D. Drake
8757 Old Charlotte Pike
Pegram, TN 37143

Enter this 24th day of November, 1997.

Muriel Robinson

MURIEL ROBINSON, JUDGE

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APPROVED FOR ENTRY:

D. SCOTT PARSLEY, #13606
BARRETT, JOHNSTON & PARSLEY
217 Second Avenue North
Nashville, TN 37201
(615) 244-2202

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served on Robert B. Young, 4800 Charlotte Avenue, Nashville, TN 37209, by placing same in the U. S. Mail, postage prepaid, on this the 12 day of November, 1997.

D. SCOTT PARSLEY

STATE OF TENNESSEE

BOOK 10728 PG 638

I, RICHARD R. 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 FOURTH Circuit Court for Davidson County, Tennessee, on the 24 day of NOVEMBER , 19 97 , in the Case Number 96D2215 between DRAKE, KAY LOVELL Plaintiff, and DRAKE, HAROLD D. Defendant, as same remains of record in Book 275B , Page 1014 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 19 day of DECEMBER in the year one thousand nine hundred and ninety-seven and in the 222nd year of American Independence.

RICHARD R. ROOKER, Clerk,

By _____ Deputy Clerk

SEAL

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FELIX ... REGISTER
DAVIDSON COUNTY, TN.

IDENTIFICATION REFERENCE

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