

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2002-0218, In the Matter of Amal Jawa and Vinod K. Jawa, the court on November 21, 2002, issued the following order:

The respondent, Vinod K. Jawa, appeals his divorce decree. He contends that the trial court erred in calculating the amount to be awarded the petitioner, Amal Jawa, from one of the parties' Quick & Reilly Accounts (Quick & Reilly Account) and in awarding the petitioner \$16,000 as her share of the Hewlett-Packard Credit Union Account. We affirm in part, vacate in part and remand for further proceedings consistent with this order.

Absent an unsustainable exercise of discretion or error of law, we will not overturn the decision of the trial court in matters involving property distribution. See Rattee v. Rattee, 146 N.H. 44, 46 (2001); State v. Lambert, 147 N.H. 295, 296 (2001) (explaining unsustainable exercise of discretion standard).

The respondent alleges that the funds which were in the Hewlett Packard Account were transferred into the Quick & Reilly Account and used to make stock purchases. He therefore contends that by awarding the petitioner half of each account the trial court double-counted the assets. We note that we have not been provided with a transcript of the proceedings below. The pleadings provided by the parties, however, contradict the respondent's current assertion about his use of the Hewlett Packard funds. In pleadings submitted to the trial court, the respondent indicated that the funds had been used in the weeks preceding the parties' separation to repay his sister for a premarital loan made for an unsuccessful business venture. It is the respondent's burden to provide us with a record upon which relief may be granted. See State v. Demond, 136 N.H. 233, 234 (1992). Given the record before us, we conclude that the respondent has failed to establish that the trial court erred in awarding the petitioner half of the Hewlett Packard Account.

The respondent also contends that the trial court erred in calculating the value of the parties' Quick & Reilly Account. The respondent asserts that the gross proceeds figure set forth on the Quick & Reilly statement is not an accurate indicator of the actual value of the account. Instead, he contends that he made successive stock purchases by buying and selling stock, using the proceeds and profits from one sale to fund the next purchase.

In Case No. 2002-0218, In the Matter of Amal Jawa and Vinod K. Jawa, the court on November 21, 2002, issued the following order:

Page Two

The petitioner in her brief concedes that the trial court awarded her one-half of the gross proceeds of the various stock sale transactions. While we do not have a transcript of the proceedings below, the documents relied upon by both parties in their briefs demonstrate a series of purchases and sales which on their face support the respondent's position that the gross proceeds figure does not accurately indicate the actual value of the account. Absent any explanation for the result reached by the trial court, these documents indicate the probability of judicial error. See State ex rel. Casinelli v. Bourgeois, 127 N.H. 754, 755 (1986). There is no such explanation in this case. Under these circumstances, where it appears that the trial court intended to award the petitioner one half of the value of the account, see RSA 458:16-a, II (Supp. 2002), we vacate the award as it relates to the Quick & Reilly Account here at issue and remand this case to the trial court for such further proceedings as it deems appropriate. We express no opinion as to whether the trial court's award was in fact erroneous – we simply hold that on remand, the trial court shall make specific findings and rulings to support its valuation and division of the Quick & Reilly Account and shall file them with this court. We otherwise retain jurisdiction of this appeal.

Affirmed in part; vacated in part; remanded.

BRODERICK, DALIANIS and DUGGAN, JJ., concurred.

**Eileen Fox,
Clerk**

Distribution:

Brentwood Family Division 2000-M-0190
✓Joshua L. Gordon, Esquire
Amal Jawa, M.D.
Mr. Vinod K. Jawa
Honorable Gerald Taube
File