

KIMBERLY A. (COSTA-MORGAN) BENNETT

v.

MICHAEL A. MORGAN

Submitted on Briefs April 27, 2011  
Decided May 12, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD,  
GORMAN, and JABAR, JJ.

## MEMORANDUM OF DECISION

Kimberly A. (Costa-Morgan) Bennett and Michael A. Morgan appeal from a post-divorce judgment order of the District Court (Ellsworth, *Staples, J.*), in which the court granted Morgan’s motions for contempt and to enforce the divorce judgment.<sup>1</sup> Contrary to Bennett’s contentions, the court did not abuse its discretion when, to achieve the property division ordered in the original divorce judgment, it enforced the provisions of that judgment by ordering that Morgan have sole control over the ultimate sale of the marital home. *See Ward v. Ward*, 2008 ME 25, ¶ 4, 940 A.2d 1063, 1064; *Black v. Black*, 2004 ME 21, ¶ 12, 842 A.2d 1280, 1286. Additionally, pursuant to M.R. Civ. P. 66(d)(2)(D), the court was presented with clear and convincing evidence that Bennett “failed or refused” to assist in the sale of the marital home and in making required payments to Morgan. The court also

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<sup>1</sup> Because the parties did not provide in the appendix the copy of the post-judgment order from which they are appealing, this Court had the authority to dismiss the appeal. *See* M.R. App. P. 8(g)(3)(A) (“[The] trial court decision, ruling or judgment that will be addressed in the appeal . . . in written form” “shall be contained in the appendix” as part of the appendix’s mandatory contents.); M.R. App. P. 8(j) (“The . . . failure to include in the appendix any document required to be included as set out in this rule, may result in the dismissal of the appeal or other sanction”); *State v. Ross*, 2004 ME 12, 841 A.2d 814. However, in order to resolve this matter, we have considered the appeal and cross-appeal on the merits.

did not abuse its discretion when it declined to award Morgan attorney fees after it determined that the ability of both parties to bear the costs was “nearly equal.” *See* 19-A M.R.S. § 105 (2010); *Nadeau v. Nadeau*, 2008 ME 147, ¶ 59, 957 A.2d 108, 123. Finally, the court did not err when it did not award Morgan post-judgment interest while mandating payment from both parties arising from noncompliance with obligations created in the original divorce judgment. *See* 14 M.R.S. § 1602-C (2010).

The entry is:

Judgment affirmed.

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