

CATHERINE E. (SMALL) RAND

v.

HAROLD O. SMALL JR.

Submitted on Briefs July 1, 2014

Decided July 8, 2014

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

#### MEMORANDUM OF DECISION

Catherine E. (Small) Rand appeals from a divorce judgment and judgment on post-judgment motions entered in the District Court (Augusta, *Dobson, J.*). Contrary to Rand's contentions, the court did not commit clear error in determining that Rand failed to rebut the presumption that the parties' five pieces of real property acquired subsequent to the marriage were marital property; specifically, the court did not err in finding that Rand failed to establish Harold O. Small Jr.'s intent to give her as a gift his interest in pieces of property that the court found were transferred into Rand's name alone to shield them from potential claims. *See* 19-A M.R.S. § 953(2), (3) (2013); *Miliano v. Miliano*, 2012 ME 100, ¶¶ 15, 17, 50 A.3d 534; *Ramsdell v. Worden*, 2011 ME 55, ¶ 11, 17 A.3d 1224; *Westleigh v. Conger*, 2000 ME 134, ¶ 7, 755 A.2d 518; *Brackett v. Larrivee*, 562 A.2d 138, 139 (Me. 1989). Nor did the court abuse its discretion in setting aside as inequitable a settlement agreement that would have given Rand all of the real property. *See Thorne v. Leask*, 2004 ME 145, ¶ 7, 861 A.2d 690; *Cloutier v. Cloutier*, 2003 ME 4, ¶¶ 10-13, 814 A.2d 979. Finally, the court did not abuse its discretion in ordering Rand to pay \$5,000 toward Small's attorney fees. *See Harmon v. Harmon*, 2009 ME 2, ¶ 11, 962 A.2d 959; *Rosen v. Rosen*, 651 A.2d 335, 336 (Me. 1994).

The entry is:

Judgment affirmed.

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**On the briefs:**

Neil S. Shankman, Esq., and Cecilia J. Guecia, Esq., Shankman & Associates Legal Center, Lewiston, for appellant Catherine E. (Small) Rand

David M. Lipman, Esq., and Caleb J. Gannon, Esq., Lipman & Katz, P.A., Augusta, for appellee Harold O. Small, Jr.