

REBECCA TURNER

v.

LLOYD TURNER JR. et al.

Argued May 16, 2001
Decided May 31, 2001

Panel: WATHEN, C.J., and CLIFFORD, RUDMAN, DANA, SAUFLEY,
ALEXANDER, and CALKINS, JJ.

MEMORANDUM OF DECISION

Rebecca Turner appeals from the judgment of divorce and the judgment denying her consolidated civil claims entered in the Superior Court (Hancock County, *Mead, C.J.*), and Lloyd Turner, Jr. cross-appeals from the judgment of divorce and from the findings of fact and conclusions of law entered subsequent to that judgment. With regard to the divorce judgment, Rebecca contends that the court erred in characterizing marital and nonmarital property, dividing the marital property, and awarding inadequate alimony, and Lloyd Jr. contends that the court erred in dividing the marital property, increasing the alimony award, and allowing Rebecca to recover attorney fees. With regard to the consolidated civil action, Rebecca asserts that the court erred by denying her claim for the creation of a constructive trust.

Despite Rebecca's contention, the court's characterization of marital and nonmarital property was not clearly erroneous. *See Clum v. Graves,*

1999 ME 77, ¶ 9, 729 A.2d 900, 904 (citing *Nordberg v. Nordberg*, 658 A.2d 217, 219 (Me. 1995)). In addition, the court's division of marital property and increase of the spousal support award neither violated a positive rule of law nor resulted "in a plain and unmistakable injustice." *Tibbetts v. Tibbetts*, 2000 ME 210, ¶ 6, 762 A.2d 937, 939 (quoting *Quinn v. Quinn*, 1997 ME 131, ¶ 3, 696 A.2d 432, 433). Finally, the court did not abuse its discretion in allowing Rebecca to recover the attorney fees she incurred in her defense of the divorce action. *See Largay v. Largay*, 2000 ME 108, ¶ 16, 752 A.2d 194, 198.

Separately, despite Rebecca's assertions to the contrary, the evidence in the record did not compel a finding in her favor on her civil claim seeking the creation of a constructive trust comprised of the proceeds resulting from the sale of certain real property owned by Lloyd Jr.'s parents. *See Estate of Campbell*, 1997 ME 212, ¶¶ 5-8, 704 A.2d 329, 330-31; *Ruebsamen v. Maddocks*, 340 A.2d 31, 34-35 (Me. 1975).

The entry is:

Judgment affirmed.

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