

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re Marriage of RABIA ARIF and ARIF
AKHTAR.

2d Civil No. B248975
(Super. Ct. No. D320541)
(Ventura County)

RABIA ARIF,

Petitioner,

v.

ARIF AKHTAR,

Appellant.

Arif Akhtar (Husband) appeals from a judgment following a court trial that dissolves his marriage to Rabia Arif (Wife), makes final orders about how their two children will be parented, resets child support at \$0, reserves jurisdiction to award spousal support, divides the community assets and liabilities of the parties and provides a mechanism for the reduction of Husband's \$126,762 child support arrearage.

We have granted permission to Husband to file his Reply Brief, in which he moves to strike Wife's reply brief, and have considered it. His appeal fails because he did not provide a record that permits us to consider the rulings by the trial court that he claims were wrong. We deny Husband's motion to strike Wife's reply brief and affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

The limited record provided to us of the proceedings below shows that Husband and Wife married in 1996 and separated in 2009 after a failed attempt to reconcile. They have two minor children, Umaina, 12 and Marryah, 8. The court acquired jurisdiction over Husband in March 2007 when he was served with a copy of Wife's petition for dissolution. At some point thereafter, Husband was ordered to pay child support but failed to make some or all of the payments.

The judgment of dissolution entered on March 18, 2013, notes that the trial of the issues addressed by the judgment occurred on October 3, 2012. It states Husband's child support arrearage is \$126,762. The judgment distributes the parties' real and personal property, including a vacant lot known as Parcel No. 0s639 Summit Avenue, Villa Park, Illinois. The court found the lot is a debt-free community asset and awarded a one-half interest in it to each of the parties. The court found no other persons were record owners of that asset and ruled that if Husband sold, pledged or gave away unrecorded interests in the lot to others, the transactions occurred after the date of separation and were invalid as violations of the automatic restraining orders. The court ordered the parties to sell the lot in Illinois and gave Wife the power to select a broker and to set the listing price. The court ordered that unless Husband had by then extinguished his unpaid child support arrears, the entire net proceeds of the sale of the lot would be distributed to Wife's counsel to equalize the distribution of the community assets and to reduce or extinguish Husband's child support arrearage.

On appeal, Husband contends the trial court erred because (1) evidence he discovered after the trial showed the property in Illinois was not debt-free; (2) the evidence at trial did not support an order putting his funds "in trust for child support"; and (3) the court should have considered a premarital agreement executed in Pakistan. Husband argued a bank transfer receipt evidenced a debt attached to the property and said a new trial was warranted to permit him to present evidence of the premarital agreement.

DISCUSSION

A party challenging a judgment must show reversible error by an adequate record. (Cal. Rules of Court, rules 8.124(b)(1)(B), 8.122(b)(3).) Trial court judgments must be affirmed if an adequate record is not provided. (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574.) This is because trial court orders are presumed to be correct. An appellate court is required to assume there is support for all matters as to which the record is silent. A clerk's transcript that provides the appellate court with the pleadings, minutes and exhibits presented to the trial court in the proceedings relevant to the appeal is a crucial part of an adequate record.

"Where no reporter's transcript has been provided and no error is apparent on the face of the existing appellate record, the judgment must be *conclusively presumed correct* as to *all evidentiary matters*. To put it another way, it is presumed that the unreported trial testimony would demonstrate the absence of error. [Citation.] The effect of this rule is that an appellant who attacks a judgment but supplies no reporter's transcript will be precluded from raising an argument as to the sufficiency of the evidence. [Citations.]" (*Estate of Fain* (1999) 75 Cal.App.4th 973, 992; *Nielsen v. Gibson* (2009) 178 Cal.App.4th 318, 324-325.)

Here, there is no reporter's transcript of the testimony given at the trial in October 2012. There is no clerk's transcript that documents the court's rulings, the progress of the trial or the matters addressed by the trial court during the trial. Husband provided none of the pleadings and exhibits the trial court considered in making its findings and orders. For example, although Husband contends he filed a motion for a new trial, there is no clerk's transcript that includes conformed copies of the pleadings or other evidence Husband presented in support of such a motion. Nothing in this record even shows there was a hearing. Finally, nothing shows why the premarital agreement the parties may have executed in Pakistan could not have been presented at the trial. In fact, the March 2013 judgment states Pakistani courts must adjudicate issues relating to property in Pakistan.

Because Husband failed to provide an adequate record to determine whether substantial evidence supports the trial court's findings and orders or whether it abused its discretion in denying a request to consider a premarital agreement, we are required to resolve the issues against him and presume that the trial court followed the law and properly applied principles of equity in making its findings and orders.

DISPOSITION

The judgment is affirmed. Wife shall recover her costs on appeal.

NOT TO BE PUBLISHED.

BURKE, J.*

We concur:

GILBERT, P. J.

PERREN, J.

* (Judge of the Superior Court of San Luis Obispo County, assigned by the Chief Justice pursuant to art. 6, § 6 of the Cal. Const.)

John R. Smiley, Judge

Superior Court County of Ventura

Arif Akhtar, in pro. per., for Appellant.

Marsha Kee Chandler for Respondent.