

BOISE, WEDNESDAY, AUGUST 19, 2020 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

CHARLIE M. SMITH,

Petitioner-Respondent,

V.

BALLARD SMITH,

Respondent-Appellant.

Docket No. 46832

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Gerald Schroeder, District Judge.

Derek A. Pica, PLLC, Boise, for Appellant.

Cosho Humphrey, LLP, Boise, for Respondent.

This appeal concerns a petition to modify a divorce order concerning the sale and disposition of a parcel of property in Salt Lake City, Utah (the Salt Lake Property, or Property). In 2005, Ballard and Charlie Smith stipulated to a final divorce order, agreeing to sell the Salt Lake Property and split the net proceeds. In subsequent orders, Ballard was tasked with marketing and selling the Salt Lake Property. Without Charlie's knowledge, Ballard proceeded to move the Salt Lake Property in and out of various business entities, and sold a small portion of the Salt Lake Property. After the majority of Salt Lake Property remained unsold for nearly a decade, Charlie petitioned the magistrate court to modify its prior order, requesting: (1) the magistrate court to direct that the Salt Lake Property be appraised, and direct Ballard to pay her one-half the appraisal value; or (2) in the alternative, appoint a receiver to sell the Salt Lake Property and divide the proceeds evenly. Ballard opposed the petition, in part, on the grounds that the magistrate court never had jurisdiction over the Salt Lake Property when it entered its original divorce order. The magistrate court granted Charlie's petition to modify, appointing a receiver to handle all matters relating to the Salt Lake Property. Additionally, the magistrate court ordered Ballard to pay Charlie one-half the net proceeds from the sale of the smaller portion of the Salt Lake Property and awarded Charlie attorney fees pursuant to Idaho Code section 12-121. Ballard appealed to the district court. The district court affirmed the magistrate court, and awarded Charlie attorney fees for her intermediate appeal. Ballard timely appealed to this Court.