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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5115-15T2

F.L.,

Plaintiff-Respondent,

v.

E-S.Y.,

Defendant-Appellant.

Argued November 28, 2017 – Decided January 18, 2018

Before Judges Hoffman and Gilson.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Middlesex
County, Docket No. FM-12-2724-14.

Michael J. Confusione argued the cause for
appellant (Hegge & Confusione, LLC, attorneys;
Michael J. Confusione, of counsel and on the
brief).

Respondent F.L. argued the cause pro se.

PER CURIAM

Defendant appeals from a March 30, 2016 judgment of divorce
(JOD), and a June 30, 2016 order denying his motion for
reconsideration. The JOD was entered following a trial.

Defendant contends that the judgment was based on insufficient credible evidence and that the trial court made errors in its ruling on equitable distribution, alimony, and child support. We disagree and affirm because the court's factual findings were supported by substantial credible evidence and the court correctly applied those facts to the well-established law governing equitable distribution, alimony, and child support.

I.

The parties were married in Taiwan in 2005.¹ In 2006, they moved to the United States where defendant worked in the information technology industry and plaintiff worked as a bank loan officer. They have two children, who were born in 2005 and 2008. At the time of the divorce, the children were eleven and eight years old.

In May 2014, plaintiff filed for divorce on the grounds of irreconcilable differences and extreme cruelty. Following discovery, a two-day trial was conducted on December 14, 2015, and March 9, 2016. Plaintiff was initially represented by counsel, but during trial she assumed her own representation. Defendant chose to represent himself. Plaintiff and defendant were the only witnesses who testified at trial and they each also submitted

¹ We use initials for the parties in order to protect their privacy.

exhibits, which included tax returns, certain bank account statements, and their case information statements.

After considering the evidence, the court entered a final JOD on March 30, 2016, and explained the reasons for its decision on the record that day. The court addressed and made specific findings concerning alimony, custody, child support, and equitable distribution. After averaging the parties' incomes from the six years preceding the divorce action, the court determined that plaintiff's earning capacity was just over \$89,000 per year and defendant's earning capacity was just over \$133,000 per year. Using those imputed incomes, the court ordered defendant to pay limited duration alimony for four-and-one-half years in the amount of \$1000 per month. The court also awarded the parents joint custody, with plaintiff being designated as the parent of primary residential custody. Applying the child support guidelines, the court ordered defendant to pay plaintiff child support in the amount of \$226 per week.

Turning to the issue of equitable distribution, the court made findings on how the parties' assets were to be divided. Specifically, the court addressed what properties would be included in equitable distribution, how the proceeds from the marital residence, which had already been sold, were to be distributed and the credits that were to be applied, and how the

parties' bank accounts and pension accounts were to be distributed. The court also addressed the parties' contentions about undisclosed assets and dissipated assets. In that regard, the court found that neither party submitted proof supporting those claims. In making its findings, the court also evaluated the credibility of the parties. Specifically, the court found that defendant's testimony was often incredible and did not support many of his contentions.

Defendant filed a motion for reconsideration on April 19, 2016. On June 30, 2016, the court heard oral argument and denied that motion, explaining its reasons on the record.² On July 28, 2016, defendant, who was then represented by counsel, filed a notice of appeal. We granted defendant's motion to file the notice as within time.

II.

On appeal, defendant argues that certain provisions of the JOD are not supported by sufficient credible evidence and are inconsistent with the law. Specifically, defendant challenges the court's ruling on (1) the distribution of the marital residence; (2) the exclusion of a property in Taiwan owned by plaintiff;

² We are not persuaded by plaintiff's arguments that the motion for reconsideration was untimely because she was not served with that motion until June 3, 2016.

(3) the distribution of the parties' bank accounts; (4) the distribution of the parties' pension accounts; (5) plaintiff's alleged undisclosed assets; (6) plaintiff's alleged dissipation of marital assets; (7) the amount of annual income the court found defendant earned, and which the court used to calculate defendant's alimony and child support obligations; and (8) the amount of pendente lite support defendant paid.

Our review of the trial court's factual findings is limited. Elrom v. Elrom, 439 N.J. Super. 424, 433 (App. Div. 2015) (citing Cesare v. Cesare, 154 N.J. 394, 411 (1998)). Generally, "findings by the trial court are binding on appeal when supported by adequate, substantial, credible evidence." Ibid. In matrimonial matters, this "[d]eference is especially appropriate when the evidence is largely testimonial and involves questions of credibility[.]" Ibid. Accordingly, we will not overturn an equitable distribution, child support, or alimony award unless there was a clear abuse of discretion, a failure to correctly apply governing legal principles, or factual findings that lack support in the record. See Genovese v. Genovese, 392 N.J. Super. 215, 222 (App. Div. 2007) (recognizing that equitable distribution will be upheld unless the trial court "mistakenly exercised its broad authority to divide the parties' property"); see also Elrom, 439 N.J. Super. at 433 (reviewing a trial court's imputation of

income and child support determination for an abuse of discretion); Robertson v. Robertson, 381 N.J. Super. 199, 206 (App. Div. 2005) (reviewing a trial court's award of alimony for an abuse of discretion).

Applying that standard, we discern no basis to disturb any of the rulings defendant challenges on this appeal. Each of the arguments defendant raises were expressly addressed by the trial court. In many situations, the trial court found that defendant had either not submitted sufficient proof to support his contention or that his testimony was incredible. The specific findings that the trial court made were all supported by substantial credible evidence. In making its rulings, the court applied its factual findings to the established law governing equitable distribution, alimony, and child support. See N.J.S.A. 2A:34-23.1 and N.J.S.A. 2A:34-23(b)(1) to (b)(14) (setting forth the criteria to be considered by the court in determining equitable distribution and alimony); see also Child Support Guidelines, Pressler & Verniero, Current N.J. Court Rules, Appendix IX to R. 5:6A. Accordingly, we affirm the March 30, 2016 JOD.

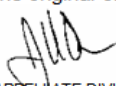
We also affirm the June 30, 2016 order denying defendant's motion for reconsideration. We review such orders under an abuse of discretion standard. Pitney Bowes Bank, Inc. v. ABC Caging

Fulfillment, 440 N.J. Super. 378, 382 (App. Div. 2015). Here, we find no such abuse.

The trial court correctly noted that defendant sought to introduce new information on his motion for reconsideration, but that the information had been available to defendant at the time of trial. Accordingly, the trial court correctly concluded that defendant's attempt to supplement and expand the record was not permitted and did not support an argument for reconsideration. The trial court also correctly noted that certain of defendant's arguments on reconsideration were simply re-arguments of positions the court had rejected in entering the JOD.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION