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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0592**

Erin G. Aasen,
Respondent,

vs.

Keith Macbride, et al.,
Defendants,

A. H. Bennett Company,
Appellant.

**Filed December 26, 2017
Affirmed
Jesson, Judge**

Mille Lacs County District Court
File No. 48-CV-14-2186

Julie N. Nagorski, DeWitt Mackall Crouse & Moore S.C., Minneapolis, Minnesota (for respondent)

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Considered and decided by Connolly, Presiding Judge; Jesson, Judge; and Florey, Judge.

UNPUBLISHED OPINION

JESSON, Judge

Respondent Erin Aasen and her husband Robert Aasen owned property in joint tenancy. Several creditors, including appellant A.H. Bennett Company, had judgments

entered against Mr. Aasen, but the judgment liens did not attach to the Aasens' property because of the homestead exemption. The Aasens separated, and Ms. Aasen filed for dissolution several years later. In a partial judgment, the district court dissolved the marriage, but reserved the issue of division of property. And in a subsequent final judgment five months later, Ms. Aasen was awarded the property. Ms. Aasen later filed a quiet title action seeking a declaratory judgment that the judgment liens of the creditors did not attach to her home. The district court agreed and held the liens did not attach. A.H. Bennett Company appeals and argues that during the window of time between the partial and final judgments, the judgment liens attached to the property. Because the homestead exemption continued to protect the property during this period of time, we affirm.

FACTS

Respondent Erin Aasen married Robert Aasen in 1997. In 2001, the Aasens moved into a property in Oak Park. They held the property in joint tenancy. In 2008, appellant A.H. Bennett Company (AHBC) and Keith and Patricia Macbride obtained judgments against Mr. Aasen. Also in 2008, the Aasens separated, and Mr. Aasen moved out of the property while Ms. Aasen and their two children continued to live there.

Ms. Aasen filed for dissolution in 2013. In April 2014, the court entered a partial findings of fact, conclusions of law, and judgment. This partial judgment dissolved the marriage, and Ms. Aasen was awarded "temporary exclusive use and possession of [their] homestead." But the issues of division of the property and debts were reserved. After this partial judgment, Ms. Aasen and her children continued to live on the property. In September 2014, the court entered its final findings of fact, conclusions of law, and

judgment in the dissolution proceedings. The court determined that Ms. Aasen “shall be solely awarded all right, title, and interest of the marital real property” and that she “is awarded the property subject to all mortgages, loans, and encumbrances, free and clear of any claim by [Mr. Aasen].” The court also determined that all judgments against Mr. Aasen should be paid by him.

In November 2014, Ms. Aasen filed a quiet title action seeking a declaratory judgment that her property is her homestead and that the judgment liens of the creditors¹ did not attach to her property at any time. AHBC argued that the liens attached to the property after entry of the partial judgment, as the homestead exemption could not apply because Mr. Aasen abandoned the property and Ms. Aasen was no longer entitled to the exemption as a former spouse. It further contended that the partial judgment dissolving the marriage severed the Aasens’ joint tenancy, and they instead held the property in tenancy-in-common during the time between the partial and final judgments.

Ms. Aasen moved for summary judgment. The court determined that Ms. Aasen occupied the property at all relevant times, and therefore it was her homestead.² However, the court denied the motion for summary judgment because there were genuine issues of

¹ The creditors listed were AHBC, Terry Gums, and the Macbrides. Gums and the Macbrides did not file an answer or make any appearances, and the court found them to be in default. Gums was later dismissed from the action.

² AHBC sought permission to file a motion for reconsideration regarding the homestead exemption. *See* Minn. R. Gen. Pract. 115.11 (“Motions to reconsider are prohibited except by express permission of the court, which will be granted only upon a showing of compelling circumstances.”). The court denied the request and emphasized that the Aasens continued to hold the property as joint tenants through the final judgment. The court further explained that the joint tenancy or tenancy-in-common issue was not controlling because whether the homestead exemption applied was dispositive.

material fact as to other components of the homestead exemption that are not a part of this current appeal.³ The case went to a stipulated-facts bench trial to determine the remaining questions, and the district court concluded that the homestead exemption applied and the creditor's judgment liens never attached to Ms. Aasen's property. AHBC now appeals.

D E C I S I O N

The issue presented here is whether the judgment liens against Mr. Aasen attached after the partial judgment dissolving the marriage, but before the final judgment awarding the property to Ms. Aasen. The parties agree that if the district court had simultaneously dissolved the marriage and awarded the property to Ms. Aasen, the liens would not have attached. It would be barred by the homestead exemption. But AHBC contends, as of April 2014 when the Aasens' marriage was dissolved in a partial judgment, neither Mr. nor Ms. Aasen had the protection of the homestead exemption. Mr. Aasen had moved out long before the dissolution proceedings, and as of the date of the partial judgment, Ms. Aasen was no longer a spouse. The issue consequently turns on whether the partial judgment eliminated the homestead exemption.⁴

³ There were remaining issues of what the homestead exemption cap amount should be, and whether the value of the property exceeded it. *See* Minn. Stat. § 510.02, subd. 1 (2016) (discussing exemption cap amounts depending on the size and purpose of property).

⁴ AHBC also argues that Minnesota Statutes section 500.19, subdivision 5 (2016), severed the Aasens' joint tenancy at the time of the partial judgment, and as a result, its judgment lien attached to Mr. Aasen's interest in the property held in tenancy-in-common. That statutory provision states that a dissolution of a marriage severs all joint tenancy interests in the property, unless the "decree declares that the parties continue to hold an interest in real estate as joint tenants." Minn. Stat. § 500.19, subd. 5. Because our decision rests entirely on the homestead exemption, we do not reach this issue.

To address this issue, we first examine the background of the homestead exemption. We then turn to statutory interpretation to determine whether Ms. Aasen was protected by the homestead exemption as a “spouse.” Because this review involves a matter of statutory interpretation, it is a question of law subject to de novo review. *Pietsch v. Minnesota Bd. of Chiropractic Exam’rs*, 683 N.W.2d 303, 306 (Minn. 2004).

Background on Minnesota’s Homestead Exemption

The homestead exemption is an exception to the general rule that a monetary judgment becomes a lien on the judgment debtor’s real property once the judgment is docketed. Minn. Stat. § 548.09, subd. 1 (2016); Minn. Stat. § 510.01 (2016). While the homestead exemption involves an inherent conflict between a creditor’s entitlement to be paid and the debtor’s interest in protecting his or her home, the “policy of giving the debtor ‘sanctuary’ from just claims in his ‘homestead’ has prevailed with significant uniformity.” *Denzer v. Prendergast*, 267 Minn. 212, 216, 126 N.W.2d 440, 443 (1964). Therefore, the homestead exemption is to be liberally construed. *Torgelson v. Real Prop. Known as 17138 880th Ave., Renville Cty.*, 749 N.W.2d 24, 26 (Minn. 2008).

In broadly construing the exemption, courts have emphasized that the benefit of the exemption is not just for the debtor, but the debtor’s family. *See Ryan v. Colburn*, 185 Minn. 347, 350, 241 N.W. 388, 389 (1932) (“This [homestead] statute rests upon the thought of family.”). Indeed, a central feature of the homestead exemption is that it extends not just to the debtor, but also to his or her spouse:

If the debtor be married the homestead title may be vested in either spouse, and the exemption shall extend to the debts of either or of both. Any interest in the land, whether legal or

equitable, shall constitute ownership, within the meaning of this chapter, and the dwelling house so owned and occupied shall be exempt, though situated on the land of another.

Minn. Stat. § 510.04 (2016). And desertion of the owner similarly does not affect the spouse's rights to the exemption:⁵ "If the owner shall abscond, or otherwise desert the family, the spouse and the minor children comprising the family may retain the homestead, with all the rights of owners therein." Minn. Stat. § 510.06 (2016); *see also Grace v. Grace*, 96 Minn. 294, 297–98, 104 N.W. 969, 971 (1905) ("no waiver of homestead right by the husband or wife can affect the vested interest of the other spouse therein; neither can the abandonment or waiver of such homestead right by the one entitled to enjoy the same injuriously affect the interest of any other entitled thereto"). Only one spouse needs to occupy the property for it to be exempt, and the lien cannot attach to the abandoner's interest while the other spouse occupies it. *See Eustice v. Jewison*, 413 N.W.2d 114, 120 (Minn. 1987); *see also Vickery v. First Bank of LaCrosse*, 368 N.W.2d 758, 765 (Minn. App. 1985), *review denied* (Minn. Aug. 20, 1985).

The Partial Judgment's Effect on the Homestead Exemption

AHBC contends that Ms. Aasen was not entitled to the protection of the homestead exemption once the marriage was dissolved pursuant to the partial judgment, because as a former spouse, the exemption was no longer applicable. *See* Minn. Stat. § 510.04 ("If the debtor be married the homestead title may be vested in either *spouse*.") (emphasis added);

⁵ Minnesota Statutes section 510.07 (2016) states that, "If the owner shall cease to occupy such homestead for more than six consecutive months the owner shall be deemed to have abandoned."

Minn. Stat. § 510.06 (“No waiver of homestead right by the husband or wife can affect the vested interest of the other *spouse* therein.”) (emphasis added). This argument requires that we interpret the statute to decide whether Ms. Aasen was a spouse for purposes of the homestead exemption after entry of the partial judgment but before entry of the final judgment. The first step of statutory interpretation is to determine if the language of the statute is unambiguous. *Rushton v. State*, 889 N.W.2d 561, 563 (Minn. 2017). We give the text of the statute its plain meaning, and we examine the statute as a whole. *Id.* at 563-64. If the statute is ambiguous, then we go beyond the statute to determine the legislature’s intent. *Rohmiller v. Hart*, 811 N.W.2d 585, 589 (Minn. 2012).

Examining the plain meaning of the statute, we determine that a spouse whose dissolution of marriage is not yet final is protected by the homestead exemption. We observe that the partial judgment dissolving the marriage in this case was not final. A judgment dissolving a marriage is “final when entered, *subject to the right of appeal.*” Minn. Stat. § 518.145, subd. 1 (2016) (emphasis added).⁶ In bifurcated dissolution cases, partial judgments are not subject to appeal until after the final judgment.⁷ *See Tasker v. Tasker*, 395 N.W.2d 100, 104 (Minn. App. 1986) (holding that the partial judgment in a

⁶ Minnesota Statutes section 518.145, subdivision 1, discusses both finality and when parties may remarry during the process, depending on the circumstances. Similarly, Minnesota Statutes section 517.03, subdivision 1 (2016), discusses when parties may not remarry, in accordance with Minnesota Statutes section 518.145 (2016). However, this decision is discussing the finality of marriage dissolution in conjunction with the homestead statutory provisions and is not interpreting when parties may remarry.

⁷ This is consistent with the general rule that judgments resolving fewer than all claims are not immediately appealable, unless the district court determines there is no “just reason for delay” and upon an “express direction for the entry of judgment.” Minn. R. Civ. P. 54.02; *see also Krmpotich v. City of Duluth*, 449 N.W.2d 507, 509 (Minn. App. 1989).

dissolution proceeding was not appealable until the entry of the final judgment); *see also Bateman v. Bateman*, 382 N.W.2d 240, 249 (Minn. App. 1986) (determining that time to appeal a partial judgment dissolving the marriage was tolled until the final judgment), *review denied* (Minn. April 24, 1986). Therefore, a partial judgment dissolving a marriage is generally not final until after entry of a judgment adjudicating all of the claims and all of the rights and liabilities of all of the parties.⁸ Because the Aasen dissolution was not final pursuant to Minnesota Statutes section 518.145, subdivision 1, we conclude that the dissolution judgment was not final until entry of the final judgment on September 2014. As a result Ms. Aasen continued to benefit from the protection of the homestead exemption as a “spouse” until that time. The judgment liens did not attach.

Even if the statute was ambiguous, going beyond the plain language to ascertain the intent of the legislature buttresses this reading of the statute. *See In re Kleven*, 736 N.W.2d 707, 709 (Minn. App. 2007) (stating that when the language of a statute is ambiguous, the intent of the legislature controls). To determine the intent of the legislature, we may look to, amongst other factors, the purpose of the statute, prior caselaw, and the consequences of an interpretation. *See* Minn. Stat. § 645.16(4)-(6) (2016); *see also In re Conservatorship of Nelsen*, 587 N.W.2d 649, 651 (Minn. App. 1999).

First, protecting the debtor’s family is one of the primary goals of the statute, and our interpretation advances this purpose by protecting Ms. Aasen and the parties’ children.

⁸ A partial judgment may be deemed final if it meets the requirement of Minn. Civ. P. 54.02, which here it did not, as there was no express determination that there was no just reason for delay. In the absence of such express determination, any partial judgment is not deemed final. Minn. Civ. P. 54.02.

See Ryan, 185 Minn. at 350, 241 N.W. at 389 (1932) (holding that a goal of the statute is to protect the family). Second, prior caselaw directs us to construe the homestead exemption liberally, and determining that a spouse with a pending marriage dissolution is entitled to the exemption is consistent with this directive. *See Torgelson*, 749 N.W.2d at 26. Third, we recognize the practical impact of following AHBC’s approach, to hold that a partial judgment severs the homestead exemption, is a consequence likely not intended by the legislature. This approach would mean a judgment lien against a debtor would attach to the homestead when the issue of property division is reserved in a decree of marriage dissolution, but not when the issues are determined simultaneously. This would create a disincentive to resolve selected issues early in litigation, which is particularly important in family law. *See Shirk v. Shirk*, 561 N.W.2d 519, 521 (Minn. 1997) (“Courts favor stipulations in dissolution cases as a means of simplifying and expediting litigation, and to bring resolution to what frequently has become an acrimonious relationship between the parties.”).

Finally, the result reached by our reading of the statute is consistent with the language of the partial judgment. The district court explicitly reserved the issue of property interests: “The issue regarding the equitable distribution of said property and other interests should be reserved.” This left any determinations related to property interests for a later date, meaning not only was the dissolution not final at the time of the entry of the partial judgment, but that the Aasens’ property interests did not change prior to the final judgment. To strip the property of its homestead exemption status, and subject it to judgment liens, would be inconsistent with the terms of the judgment itself.

Because the partial judgment dissolving the marriage did not affect the homestead exemption, the district court appropriately determined that the judgment liens did not attach to Ms. Aasen's property.

Affirmed.