

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0966**

Tanya Lynn Rambow, petitioner,
Respondent,

vs.

Paul Roland Rambow,
Appellant.

**Filed April 15, 2008
Affirmed in part, reversed in part, and remanded;
motion denied.
Stoneburner, Judge**

Hennepin County District Court
File No. 27FA0667

Kathryn A. Graves, Katz, Manka, Teplinsky, Due & Sobol, Ltd., Suite 4150, 225 South Sixth Street, Minneapolis, MN 55402 (for respondent)

David J. Van House, Van House & Associates, P.A., Suite 800, 200 Village Center Drive, North Oaks, MN 55127 (for appellant)

Considered and decided by Wright, Presiding Judge; Stoneburner, Judge; and Johnson, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant challenges a post-dissolution-decree order (1) granting respondent, his ex-wife, sole authority to sell real property awarded to appellant in the dissolution decree in order to satisfy respondent's property award; (2) awarding respondent a judgment for

the value of a vehicle in respondent's possession; and (3) awarding respondent compensation for her time spent trying to obtain title to the vehicle in addition to granting her request for attorney fees. Respondent has moved for attorney fees on appeal. We reverse the referee's grant of sole authority to respondent to sell appellant's property, affirm the award of the value of the vehicle and attorney fees, deny respondent's motion for attorney fees on appeal, and remand.

FACTS

The marriage of appellant Paul Roland Rambow and respondent Tanya Lynn Morrison, f/k/a Tanya Lynn Rambow, was dissolved by a decree of dissolution based on a Marital Termination Agreement. Rambow was awarded all interest in his law practice and five parcels of real estate, including the parties' homestead and two parcels located in Florida. The real property was awarded subject to liens in favor of Morrison to secure a \$615,000 cash payment awarded to Morrison, to be paid within 90 days of the entry of the decree. The decree also provided that interest at the judgment rate would accrue on any amount of the cash award not paid when due and that Morrison would receive temporary maintenance of \$2,000 per month until the cash payment is paid in full. Rambow was required to transfer to Morrison valid title to a BMW automobile in Morrison's possession.

Rambow failed to pay the cash award and failed to transfer title to the BMW. Morrison moved to enforce her liens against the properties awarded to Rambow and for a judgment for the value of the BMW. Rambow opposed the motion and requested attorney fees. After the hearing on these motions, Morrison filed a supplemental affidavit

asking that she be given the sole authority to sell Rambow's Florida properties to satisfy the cash award. The referee entered an order (1) providing that if the cash payment had not been made by February 11, 2007, Morrison would be given sole authority to list and sell the Florida properties awarded to Rambow; (2) awarding Morrison \$20,350, the value of the BMW, but staying entry of judgment for a specific time to give Rambow the opportunity to give Morrison a valid title to the vehicle; and (3) ordering Rambow to pay Morrison's attorney \$1,000.

Rambow did not pay the property settlement or provide title to the BMW in the time permitted. Morrison filed an affidavit of default on the property settlement, and the referee immediately issued an order appointing Morrison attorney in fact to sell Rambow's properties in Florida. Morrison also filed an affidavit of default to lift the stay of the entry of judgment for the value of the BMW, but as of the date of the appeal, judgment had not been entered.

Rambow sought review of the referee's order from the district court. The district court denied review, concluding that Minn. Stat. § 484.65, subd. 9 (2006), does not expressly permit district court review of referee decisions. This appeal followed. Morrison moved for conduct-based attorney fees, asserting that the appeal was taken solely to delay sale of the properties.

D E C I S I O N

The district court's implementation of the terms of a dissolution decree is reviewed under an abuse-of-discretion standard. *Potter v. Potter*, 471 N.W.2d 113, 114 (Minn. App. 1991). A district court cannot modify a property division after entry of the

original judgment and expiration of the time for appeal. *Erickson v. Erickson*, 452 N.W.2d 253, 255 (Minn. App. 1990). But a district court “may issue appropriate orders implementing or enforcing specific provisions of the dissolution decree.” *Id.* “A trial court has the power to clarify and construe a divorce judgment so long as it does not change the parties’ substantive rights.” *Ulrich v. Ulrich*, 400 N.W.2d 213, 218 (Minn. App. 1987).

I. Sale of Florida properties

Rambow argues that the referee abused his discretion by granting Morrison “unfettered” ability to sell his property to satisfy the cash award contained in the dissolution decree. Rambow argues that, absent safeguards to protect his interest in the properties, Morrison could sell the properties at less than market value, thereby affecting his substantive rights under the dissolution decree.¹ The decree does not state the value of the property, and the parties have not agreed on the value.

In *Linder v. Linder*, we affirmed a district court order requiring the listing of property at a certain price and acceptance of offers within a certain range. 391 N.W.2d 5, 8 (Minn. App. 1986). In *Sullivan v. Sullivan*, we affirmed a district court order requiring that property be listed with a neutral realtor after husband failed to sell the property as required by the decree. 374 N.W.2d 517, 519 (Minn. App. 1985).² But in *Ulrich*, we

¹ Morrison asserts in her appellate brief that during one of the hearings, Rambow agreed to sale of the Florida properties to satisfy the decree, but the record does not contain a transcript of this hearing or any other evidence that Rambow agreed to sale of the Florida properties.

² In *Sullivan*, wife was allowed to select the realtor, but she was only to receive one-half of the net proceeds. 374 N.W.2d at 519.

concluded that the district court abused its discretion by ordering a private sale of wife's homestead that was subject to husband's lien because only wife was in a financial position to bid, and therefore the value of husband's lien would be adversely affected because wife would need to make only a nominal bid. 400 N.W.2d at 218.

Although the referee in this case has authority to order the sale of Rambow's properties to satisfy Morrison's award, we conclude that the referee abused his discretion by giving Morrison the unfettered authority to sell the properties. Morrison has no incentive to protect Rambow's interest in the property and can adversely affect his interest by selling at a price that satisfies only her interests. We therefore reverse the referee's order granting Morrison the unrestrained authority to sell Rambow's Florida properties and remand for conditions of sale sufficient to protect Rambow's interest in the property or the imposition of an alternative method to enforce Morrisons's cash award.

II. Judgment for value of the BMW

The referee reasoned that absent clear title, the BMW has no value to Morrison and awarded her a stayed judgment for the value of the vehicle consistent with the terms of the stipulated decree.³ Rambow argues that the referee has altered the terms of the original property division by ordering him to pay Morrison the value of the BMW without ordering Morrison to return possession of the vehicle to him. Morrison argues that because Rambow appeals from an order staying entry of judgment for the value of

³ The decree provides for money damages equal to the value of the vehicle if title is not transferred.

the BMW, this issue is not ripe for appeal. Because at the time of the appeal the judgment was stayed, we conclude that appeal is premature on this issue and decline to address it.

III. Award for Morrison's time

The decree provided for attorney fees if Rambow failed to transfer title to the BMW to Morrison. On appeal, Rambow does not challenge the award of \$1,000 in attorney fees to Morrison's attorney; rather, he challenges "compensating [Morrison's] time in addition to granting an award of attorney fees." The referee characterized the attorney fees awarded as "for [Morrison's] time and expense trying to obtain title to the car—granted to her almost one-half year ago," but there was no separate award to Morrison for her time. The order was for payment directly to Morrison's attorney. We conclude that the referee did not abuse his discretion in the award of attorney fees.

IV. Attorney fees on appeal

Because we conclude that the referee abused his discretion in granting Morrison the unrestricted right to sell Rambow's property, we decline to grant Morrison's motion for conduct-based attorney fees on appeal.

Affirmed in part, reversed in part, and remanded; motion denied.