

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JANICE COOPER, Respondent) No. ED90363
)
vs.) Appeal from the Circuit Court of
) Jefferson County
GARY MURPHY, Appellant) Cause No. CV300-5002-CC-J4
) Honorable Mark T. Stoll
) Filed: January 27, 2009

This appeal follows the partition of a piece of property ("the Property") that the parties own as joint tenants with right of survivorship. Gary Murphy appeals the trial court's judgment which granted a partition sale but did not grant him compensation for his claimed expenses toward improving the Property and paying mortgages encumbering the Property. He also appeals the trial court's failure to award him attorney's fees.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED WITH INSTRUCTIONS.

Division Five Holds: Because the trial court's judgment was supported by substantial evidence and was not against the weight of the evidence regarding Murphy's expenses and the mortgages, we affirm the judgment in those respects. However, because Rule 96.30 mandates that the court shall award attorney's fees in a partition action, we reverse this part of the judgment and remand for a calculation of attorney's fees.

Opinion by: Kenneth M. Romines, J. Nannette A. Baker, C.J. and Glenn A. Norton, J. concur.

Attorney for Appellant: Kenneth K. Schmitt

Attorney for Respondent: Randall D. Sherman

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.