

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DOUGLAS E. MASKILL,  
RESPONDENT  
vs.**

**KELLY D. CUMMINS,  
APPELLANT**

---

DOCKET NUMBER WD74774

DATE: APRIL 9, 2013

---

Appeal from:

The Circuit Court of Platte County, Missouri  
The Honorable Dennis C. Eckold, Judge

---

Appellate Judges:

Division One: Mark D. Pfeiffer, P.J., Victor C. Howard and Alok Ahuja, JJ.

---

Attorneys:

Keith W. Hicklin, for Respondent

Kelly D. Cummins, Appellant Pro-se

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DOUGLAS E. MASKILL, RESPONDENT**

**v.**

**KELLY D. CUMMINS, APPELLANT**

WD74774

Platte County, Missouri

Before Division One: Mark D. Pfeiffer, P.J., Victor C. Howard and Alok Ahuja, JJ.

Kelly Cummins appeals the judgment of the trial court on Douglas Maskill's petition for partition of real property owned by the parties. She asserts that the trial court erred in awarding Mr. Maskill 87% and her 13% of the remaining net proceeds from the sale of the Property. She also challenges the trial court's failure to appoint three commissioners, the failure of the appointed commissioner to conduct the sale, and the validity of a sheriff's sale conducted pursuant to a judgment in a promissory note action between the parties. The judgment is affirmed. The appeal is dismissed in part.

**AFFIRMED, APPEAL DISMISSED IN PART.**

Division One holds:

(1) Where evidence was presented that Mr. Maskill purchased the Property in 2001 and refinanced it in 2003 with no financial assistance from Ms. Cummins, that he conveyed the Property to himself and Ms. Cummins as joint tenants with the right of survivorship because Ms. Cummins agreed to make half of the mortgage payments, that he made approximately \$190,000 in mortgage payments while Ms. Cummins made approximately \$26,000 in mortgage payments, and that he made approximately \$31,000 in improvements to the Property, the trial court's finding that Mr. Maskill did not intend to give a one-half interest in the Property to Ms. Cummins and its unequal award of the net proceeds from the sale of the Property were supported by substantial evidence and were not against the weight of the evidence.

(2) Where Ms. Cummins challenges the sale provisions of the trial court's interlocutory judgment in partition action, which did not determine the rights of the parties, the appeal of those parts of the judgment is premature. Additionally, where the notice of appeal only references the judgment in partition not a separate judgment on a promissory note, this court is confined to review only the judgment in partition, and Ms. Cummins's challenge to the validity of a sheriff's sale conducted pursuant to the judgment on promissory note is not addressed. Ms. Cummins's second point on appeal is, therefore, dismissed.

**Opinion by: Victor C. Howard, Judge**

Date: April 9, 2013

**This summary is *UNOFFICIAL* and should not be quoted or cited.**