

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2004-022884

05/03/2005

HONORABLE RUTH H. HILLIARD

CLERK OF THE COURT  
L. Gilbert  
Deputy

FILED: 05/09/2005

LAURA DURHAM

MICHAEL P SCHLOSS

v.

AARON WALKER

AARON WALKER  
18831 N 47TH AVE  
GLENDALE AZ 85308

MINUTE ENTRY

Plaintiff's Petition for Partition has been under advisement. The Court has considered all evidence and argument presented.

The Court finds that plaintiff and defendant agreed that Ms. Durham would sign the deed to the real property at issue over to defendant if defendant proved to her that he had the resources set aside to pay for the mortgage on the house. The evidence established that she felt her terms were not met to this agreement.

The Court finds that defendant has paid the mortgage payments on the home since December, 2003, without any contribution from plaintiff. The Court finds that defendant has fulfilled his end of the bargain and that he is entitled to performance by plaintiff.

It is ordered that plaintiff shall sign the deed over to defendant within 30 days.

It is further ordered that defendant shall apply for and obtain refinancing within 120 days of the deed being signed over to him.

In the event he does not obtain refinancing, the property shall be appraised at that time, with both parties sharing the cost of said appraisal. The property shall then be listed for sale. All costs for the sale of the home shall be shared equally. Upon sale, the equity shall be divided as follows: plaintiff to receive 25% and defendant to receive 75%.

Plaintiff is awarded 25% because she made contributions towards the mortgage payment for one-half of the time period that she has owned the real property. Defendant has

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contributed towards the mortgage the entire time. As of December, 2003 plaintiff was entitled to one-half of the equity; December 2003 was one-half of the time that the parties have owned the property as joint tenants. The Court finds that plaintiff is not entitled to equity for that period of time when she has made no contribution towards the home's expenses.

The Court finds that costs of improvements to the property shall be deducted from the proceeds in the same proportion, i.e., 25% of the costs shall be assessed to plaintiff and 75% assessed to defendant.

Plaintiff's request for attorney's fees is denied.