

[Cases that cite this headnote](#)

685 So.2d 1344  
District Court of Appeal of Florida,  
Second District.

Richard WHITESELL, Appellant,  
v.  
Phyllis WHITESELL, Appellee.

No. 95-04292.  
|  
June 12, 1996.

**Synopsis**

Husband appealed from dissolution judgment entered by the Circuit Court, Sarasota County, [Robert B. Bennett, Jr.](#), J. The District Court of Appeal, [Patterson, J.](#), held that trial court erred in dissolution proceeding by awarding five-percent interest in husband's nonmarital property to wife as part of equitable distribution, instead of making equitable distribution of property's appreciation.

Affirmed in part, reversed in part, and remanded.

West Headnotes (2)

**[1] Divorce**

[🔑 Enhancements and proceeds of separate property](#)

Trial court erred in dissolution proceeding by awarding five-percent interest in husband's nonmarital property to wife as part of equitable distribution, instead of making equitable distribution of property's appreciation.

[Cases that cite this headnote](#)

**[2] Divorce**

[🔑 Contributions and increases to separate property in general](#)

While nonmarital property's appreciation due to marital efforts of either spouse is considered marital asset, property retains its nonmarital character.

**Attorneys and Law Firms**

\***1344** [James L. Essenson](#) of Law Firm of James L. Essenson, Sarasota, for Appellant.

[G. Craig Soria](#) of G. Craig Soria, P.A., Sarasota, for Appellee.

**Opinion**

[PATTERSON](#), Judge.

Richard Whitesell (the husband) appeals from a final judgment of dissolution of marriage and raises three issues. We find merit in his claim that the trial court erred in awarding real property to Phyllis Whitesell (the wife) and reverse on that point.

**[1]** **[2]** The husband had received a ten percent interest in real property in Englewood, Florida, as a gift from his father. As part of the equitable distribution, the trial court awarded to the wife a five percent interest in the property. While the property's appreciation due to the marital efforts of either spouse is considered a marital asset, the property retains its nonmarital character. *See Gill v. Gill*, 632 So.2d 226 (Fla. 2d DCA 1994). The final judgment states, "The property currently has no net value to the owners." The trial court, however made no findings as to the property's appreciation. Thus, we reverse the award of the five percent interest in the property to the wife and remand for the trial court to determine the amount of appreciation attributable to marital efforts and to make an equitable distribution of that appreciation, if any. In all other respects, we affirm the final judgment.

Affirmed in part, reversed in part, and remanded.

[RYDER](#), A.C.J., and [BLUE](#), J., concur.

**All Citations**

685 So.2d 1344, 21 Fla. L. Weekly D1398