

HODGE V. HODGE, 1977-NMSC-008, 90 N.M. 53, 559 P.2d 841 (S. Ct. 1977)

**Ginger HODGE, Petitioner-Appellee,
vs.
James P. HODGE, Respondent-Appellant.**

No. 11027

SUPREME COURT OF NEW MEXICO

1977-NMSC-008, 90 N.M. 53, 559 P.2d 841

February 08, 1977

COUNSEL

C. Gene Samberson, Heidel, Samberson, Gallini & Williams, Lovington, for appellant.

Bruce A. Larsen, Lovington, for appellee.

JUDGES

McMANUS, J., wrote the opinion. SOSA, J., and RICHARD B. TRAUB, District Judge, concur.

AUTHOR: MCMANUS

OPINION

{*54} McMANUS, Justice.

{1} Appellant and appellee were married on December 19, 1970 and subsequently obtained a divorce. Appellant claims that the trial court erred in the division of the community property by determining that the residence of the parties was community property and not his sole and separate property. Although there is conflicting evidence in the record, there is substantial evidence to support the trial court's determination. We therefore affirm this portion of the judgment.

{2} The trial court also made a division of the personal property belonging to the community. The court awarded all of the community property to petitioner and all of the community property to respondent. This is clearly error. There are other conflicting provisions in the judgment of the court, therefore, we remand this portion of the judgment to the court to reconsider the disposition of the personal property to comply with the evidence and to make a proper division of these items.

{3} Each party shall bear his own costs, including attorney fees.

{4} IT IS SO ORDERED.

SOSA, J., and RICHARD B. TRAUB, District Judge, concur.