

STATE OF MICHIGAN
COURT OF APPEALS

RANDY E. KIMES,

Plaintiff-Appellant,

v

ROBERTA P. KIMES,

Defendant-Appellee.

UNPUBLISHED

February 4, 1997

No. 189277

Genesee Circuit Court

LC No. 94-176214

Before: Holbrook, Jr., P.J., and White and A.T. Davis, Jr.,* JJ.

PER CURIAM.

Plaintiff appeals as of right from the parties' judgment of divorce. Plaintiff's motion for post-judgment relief was denied by the trial court. On appeal, plaintiff claims that the trial court's distribution of marital property was both inequitable and unsupported by the evidence. We affirm.

At trial, both parties had agreed that whomever was to receive physical custody of the parties' two children also should receive the marital home. The court awarded custody of the children to defendant and, as a result, she was granted ownership of the marital home and the accompanying farm equipment. Finding that both parties were at fault for the breakdown of the marriage, the trial court determined that an overall equal distribution of the marital assets was appropriate. In return for defendant obtaining the marital home, plaintiff was awarded the bulk of the marital personal property. Neither party disputes that the approximate value of the property received by plaintiff was \$35,000.

However, plaintiff on appeal disputes the value of the marital home, claiming that it was between \$125,000 and \$140,000. Conversely, defendant claims the value was the purchase price, \$90,000 with approximately \$68,135 still owing under a land contract. The property was purchased in 1986 from defendant's parents, who retained a life estate interest. In awarding the marital residence to defendant, the trial court failed to make a specific finding regarding the value of the marital residence or remaining property.

* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiff claims that because the only testimony regarding the value of the marital residence was his estimate of \$125,000 to \$140,000, the property received by defendant totaled \$82,605 as compared to \$35,000 received by plaintiff. Therefore, according to plaintiff, the distribution was inequitable. We disagree. “In deciding a divorce action, the circuit court must make findings of fact and dispositional rulings.” MCR 2.517(A); *McDougal v McDougal*, 451 Mich 80, 87; 545 NW2d 357 (1996). When reviewing a lower court’s disposition of property pursuant to a judgment of divorce, this Court reviews the trial court’s findings of fact under the clearly erroneous standard. *Sparks v Sparks*, 440 Mich 141, 151; 485 NW2d 893 (1992). A trial court’s findings of fact are sufficiently specific if valuation of the property in question is ascertainable from the verdict coupled with stipulated values. *Nalevayko v Nalevayko*, 198 Mich App 163, 164; 497 NW2d 533 (1993). The trial court’s dispositional ruling should not be disturbed unless this Court is left with the firm conviction that the division was inequitable. *Sparks, supra* at 152.

While the division of property need not be equal, it must be equitable. *McDougal, supra* at 88. Nine factors are to be considered in determining whether a distribution is equitable: (1) duration of the marriage, (2) contributions of the parties to the marital estate, (3) age of the parties, (4) health of the parties, (5) life status of the parties, (6) necessities and circumstances of the parties, (7) earning abilities of the parties, (8) past relations and conduct of the parties, and (9) general principles of equity. *Id.* at 89. Although the trial court in this case did not make a specific finding as to the value of the marital home, it did specifically reject plaintiff’s valuation of the marital residence. By rejecting plaintiff’s expressed value for the home, the only remaining estimate was the value set forth by defendant. As such, the trial court impliedly adopted \$90,000 as the value of the home, leaving an equity value of \$21,864. See *Triple E Produce Corp v Mastronardi Produce, Inc*, 209 Mich App 165, 177; 530 NW2d 772 (1995). The trial court’s finding of value is further buttressed by its opinion denying plaintiff’s motion for post-judgment relief,¹ in which the court explicitly stated that the value of the property was \$90,000. Thus, the value of the property received by defendant totals approximately \$27,865. This value represents the total equity acquired in the marital home to date of trial, as well as the estimated value of \$6,000 for the farm tools. Given that plaintiff received property valued at \$32,727, plaintiff actually received a greater share of the marital estate. Accordingly, we cannot say that the court’s distribution of property was inequitable.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ Alton T. Davis, Jr.

¹ The motion denying post-judgment relief was decided and the opinion written by the trial judge’s successor after retirement.