

STATE OF MICHIGAN
COURT OF APPEALS

CLAUDETTE JANE ANDERSON,

Plaintiff-Appellee,

v

RUSSELL EMIL ANDERSON,

Defendant-Appellant.

UNPUBLISHED

March 12, 1999

No. 202160

Kent Circuit Court

LC No. 93-079717 DO

Before: Murphy, P.J., and MacKenzie and Talbot, JJ.

PER CURIAM.

Defendant appeals by right the division of property in this divorce action, challenging in particular the trial court's calculation of the parties' equity in certain real property for purposes of effectuating an equal division of the parties' equity in two real properties of the marital estate. We affirm.

We review the trial court's findings of fact for clear error and then determine whether the ultimate dispositional ruling was fair and equitable in light of the facts, reversing the disposition only when this Court is left with the firm conviction that the distribution was inequitable. *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993); *Byington v Byington*, 224 Mich App 103, 109; 568 NW2d 141 (1997).

Defendant contends that the trial court erred in failing to deduct the \$15,000 debt owed to plaintiff's father for a loan used for the purchase of the real property in Evart during the marriage from the calculation of the parties' equity in the Evart property. We disagree. The trial court was not bound to follow any particular rule or formula for dividing the property. E.g., *Johnson v Johnson*, 346 Mich 418, 431; 78 NW2d 216 (1971). "Equity" in property is commonly defined as the amount or value above the total liens or charges against the property. Black's Law Dictionary, (rev 4th ed), p 634. Using that definition, it was appropriate for the trial court to deduct only those obligations which actually encumber the property with a lien, i.e., the mortgage on the property, and not other, unsecured debts related to the purchase of the property, such as the \$15,000 debt owed to plaintiff's father. See *Oldfield v Oldfield*, 666 SW2d 17, 19 (Mo App, 1984).

We note while the trial court did not factor the \$15,000 debt into its calculation of the parties' equity in the Evert property, it did take the debt into consideration in determining an equitable division of the marital estate. Specifically, the trial court stated that it took the \$15,000 debt into consideration "against personal property and a lot of other things," briefly alluding to the evidence regarding the parties' pensions and the property that the parties brought into the marriage. We are unpersuaded that the trial court's dispositive ruling in this case is unfair or inequitable.

Affirmed.

/s/ William B. Murphy

/s/ Barbara B. MacKenzie

/s/ Michael J. Talbot