

STATE OF MICHIGAN  
COURT OF APPEALS

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SHAWNA BILICKI,

Plaintiff-Appellee,

v

KEITH BILICKI,

Defendant-Appellant.

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UNPUBLISHED

June 29, 1999

No. 208737

Lapeer Circuit Court

LC No. 97-023899 DM

Before: Bandstra, C.J., and Whitbeck and Talbot, JJ.

PER CURIAM.

Defendant appeals as of right from the parties' judgment of divorce. We affirm.

First, defendant contests the trial court's findings of fact. There is no merit to this claim. Findings of fact made by the trial court are upheld unless clearly erroneous. *McDougal v McDougal*, 451 Mich 80, 87; 545 NW2d 357 (1996). A finding is clearly erroneous if, after a review of the entire record, the reviewing court is left with the definite and firm conviction that a mistake has been made. *Draggoo v Draggoo*, 223 Mich App 415, 429; 566 NW2d 642 (1997).

We find no clear error in the trial court's findings. The trial court's valuation of the marital home is well within the range of the values provided by the parties. A trial court has great latitude in determining the value of marital assets, and where, as here, the trial court's valuation is within the range established by the proofs, no clear error is present. *Jansen v Jansen*, 205 Mich App 169, 171; 517 NW2d 275 (1994); *Rickel v Rickel*, 177 Mich App 647, 649-650, 442 NW2d 735 (1989). Nor did the trial court clearly err in finding that the marital home was not as large as defendant's appraiser determined. Plaintiff testified that much of the basement area of the house was not functional living space, while defendant's appraisal compared the Bilicki home to houses with fully functional square footage.

We find no error in the trial court's valuation of defendant's 1972 Corvette at \$12,000. The Corvette was appraised six years earlier at \$10,500 and it had not been driven in the past three years.

The trial court reasonably concluded that the car had appreciated since the appraisal and assessed a modest increase to its value.

There is no merit to defendant's claim that the trial court should have considered the Corvette a premarital asset because it was purchased by defendant before the date of the parties' marriage. *Reeves v Reeves*, 226 Mich App 490, 495; 575 NW2d 1 (1997). Plaintiff testified that the payments for the Corvette were made from the parties' joint checking account even before they were married, and the trial court allowed into evidence twenty-seven canceled checks from the joint account that demonstrated that joint funds were used to pay for the car. The trial court did not clearly err in deeming the Corvette marital property.

Defendant also challenges the trial court's property division, arguing that is unfair, inequitable, and based on the trial court's improper weighting of fault. Upon review, this Court must decide whether the disposition of the assets was fair and equitable in light of the findings of fact. *Sands v Sands*, 442 Mich 30, 34, 497 NW2d 493 (1993). The trial court's dispositional ruling is discretionary and will be affirmed unless this Court is left with the firm conviction that the division was inequitable. *Welling v Welling*, 233 Mich App 708, 709; 592 NW2d 822 (1999); *Draggoo*, *supra* at 429-430.

When apportioning a marital estate, the trial court's goal is to reach an equitable division in light of all the circumstances. *Welling*, *supra*, at 710. Each spouse need not receive a mathematically equal share. *Id.* Among other things, the court should consider the duration of the marriage, the contribution of each party, each party's station in life, each party's earning capacity, each party's age, health and needs, and any other equitable circumstance. Fault, or past misconduct, is also a factor in the division of marital assets. *Id.* See also *McDougal* *supra* at 88, *Sparks v Sparks*, 440 Mich 141, 158; 485 NW2d 893 (1992). The significance of the factors varies depending on the circumstances of the case, and each factor need not be given equal weight. *Welling*, *supra*, at 710.

In this case, the trial court considered the appropriate factors. The trial court noted the parties' vastly different earning capacities. Defendant has the ability to earn more than \$60,000 a year, while plaintiff earns less than \$25,000. There was also ample evidence that defendant was physically, emotionally and verbally abusive. Defendant routinely treated plaintiff in a controlling and demeaning manner, as evidenced by plaintiff's testimony about his Neanderthal approach to sexual intimacy. Plaintiff testified that she became physically ill when defendant was expected to arrive home and that she cried constantly. It is apparent that the effect of defendant's conduct was detrimental to the marital relationship. The trial court also properly considered plaintiff's precarious health. The health of the parties is a valid consideration in distributing marital assets. *Demman v Demman*, 195 Mich App 109, 111; 489 NW2d 161 (1992). Here it is clear that plaintiff's brain lesion creates, at best, ongoing medical expense and the continuing potential for health problems. Considering the circumstances in this case, we do not find the trial court's award unfair or inequitable. Compare *Welling*, *supra*.

Finally, defendant challenges the trial court's award of permanent alimony. The parties stipulated at oral argument that plaintiff has remarried. By its terms, the alimony award was extinguished upon plaintiff's remarriage, rendering this issue moot.

Affirmed.

/s/ Richard A. Bandstra

/s/ William C. Whitbeck

/s/ Michael J. Talbot