

STATE OF MICHIGAN  
COURT OF APPEALS

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ANGELIA DAWN USEWICK,

Plaintiff-Appellee,

v

JOHN ANTHONY USEWICK,

Defendant-Appellant.

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UNPUBLISHED

April 25, 2000

No. 213104

Saginaw Circuit Court

LC No. 97-017411 DM

Before: Wilder, P.J., and Bandstra and Cavanagh, JJ.

PER CURIAM.

Defendant appeals by right from the parties' judgment of divorce, contending that the trial court's division of the marital estate was unfair and inequitable. We affirm.

In deciding a divorce action, the trial court must make findings of fact and enter a dispositional ruling distributing the parties' marital assets. On appeal, the trial court's factual findings are reviewed for clear error, *McDougal v McDougal*, 451 Mich 80, 87; 545 NW2d 357 (1996), and the trial court's dispositional ruling is reviewed to determine whether, in light of those facts, the distribution was fair and equitable. *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993); *Draggoo v Draggoo*, 223 Mich App 415, 429; 566 NW2d 642 (1997). A dispositional ruling is discretionary and should be affirmed unless this Court is left with the firm conviction that the division was inequitable. *Sands, supra* at 32; *Draggoo, supra* at 430.

Defendant argues that the trial court's distribution of the marital assets was inequitable because in holding him entirely responsible for an \$8,800 consolidation loan debt, for which \$10,000 of his inheritance was pledged as collateral, the trial court effectively included the \$10,000 as part of the marital estate. Defendant further argues that by making him responsible for the \$8,800 debt, which defendant contends was for marital obligations, plaintiff actually received 83% of the equity in the marital home, while defendant only received 17% of the equity. We disagree.

In the instant case, the trial court's dispositive ruling was based largely on its determination that defendant was at greater fault than plaintiff for the breakdown of the marriage because of defendant's alcohol and substance abuse, as well as his periods of incarceration. Indeed, defendant conceded that

his drinking was the primary cause of the breakdown of the marriage. In all other respects, the trial court determined that the parties were equal.

Contrary to defendant's contention, the trial court ruled that the \$10,000 inheritance pledged as security against the \$8,800 loan was *not* marital property and expressly awarded this money to defendant as his separate property. See *Reeves v Reeves*, 226 Mich App 490, 494-495; 575 NW2d 1 (1997). Moreover, our review of the record fails to show that the trial court directed defendant to pay the loan debt with his inheritance; rather, the trial court merely found that the \$10,000 inheritance was collateral for the debt. Thus, defendant's contention that the trial court included defendant's inheritance as part of the marital estate is without merit. Further, because the \$8,800 loan for which defendant was made responsible was in his name alone, and represented substantial credit card debt incurred primarily by defendant, the trial court was justified in making him responsible for the entire debt.

Regarding the parties' marital home, the trial court found that the duplex had a value of \$73,600, but was encumbered with a first mortgage in the amount of \$37,477.62 and a second mortgage of approximately \$12,000. Thus, without subtracting closing costs and taxes, the net equity in the duplex was approximately \$24,122.38. The trial court ordered that the property be sold and, after discharging the mortgages and any other costs associated with closing, the net proceeds were to be divided sixty percent to plaintiff and forty percent to defendant. The trial court explained:

part of the imbalance would be due to the fault of the defendant and part of it will be to the fact that the court will be awarding a significant amount of personal property to the defendant, which will counter-balance, to the extent that there is some differential after the application of fault, the remainder.

The goal in distributing marital assets in a divorce proceeding is to reach an equitable distribution of property in light of all the circumstances. *Byington v Byington*, 224 Mich App 103, 114; 568 NW2d 141 (1997). No mathematical formula governs the division, and the division need not be equal, but only equitable. *Demman v Demman*, 195 Mich App 109, 114; 489 NW2d 161 (1992); lv den 441 Mich 923 (1993). In light of the substantial personal property awarded to defendant, and the degree of fault attributable to defendant for the breakdown of the marriage, we are not left with a firm conviction that the trial court's distribution was unfair or inequitable. *Sands, supra* at 34.

Affirmed.

/s/ Kurtis T. Wilder  
/s/ Richard A. Bandstra  
/s/ Mark J. Cavanagh