

STATE OF MICHIGAN
COURT OF APPEALS

JACQUELYN GAYLE HARRIS,

Plaintiff-Appellee,

UNPUBLISHED
August 24, 2001

v

No. 221804
Ottawa Circuit Court
Family Division
LC No. 97-028039-DO

TOMMY KEITH HARRIS,

Defendant-Appellant.

Before: Fitzgerald, P.J., and Gage and C. H. Miel*, JJ.

MEMORANDUM.

Defendant appeals by leave granted from the parties' judgment of divorce, challenging the trial court's division of marital assets. We affirm the judgment of divorce. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant's sole argument is that the trial court's division of the marital estate was inequitable because the court clearly erred in placing a valuation of \$124,000 on defendant's business notwithstanding evidence that it had a significant negative value. Defendant hinges his valuation argument on a brief passage from page 138 of the February 12, 1999, trial transcript, where, on recross examination by plaintiff's counsel, defendant was being questioned about his own Trial Exhibit 5, a financial statement of his business as of November 30, 1998, prepared by his accountant. Defendant *allegedly* testified that the financial statement showed "notes payable" totaling \$724,257. The flaw in this argument -- as pointed out by plaintiff -- is that the transcript's reference to notes payable of \$724,257 is an obvious typographical error. The correct figure, drawn from defendant's own Trial Exhibit 5, is \$74,257.07 -- a \$650,000 difference. While it is true that defendant's business was encumbered by significant bank debt, the total came closer to \$338,000, not \$750,000, as argued by defendant on appeal.

In light of defendant's blatant misrepresentation of the record, we affirm the judgment of divorce. The trial court's valuation of defendant's business was within the range of competent evidence, and the overall division of the marital estate was equitable under the circumstances.

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

Affirmed. Plaintiff, as the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ E. Thomas Fitzgerald

/s/ Hilda R. Gage

/s/ Charles H. Miel