

STATE OF MICHIGAN  
COURT OF APPEALS

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REBECCA FOX-HARMOR,

Plaintiff-Appellee,

V

W. GLENN HARMOR,

Defendant-Appellant.

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UNPUBLISHED

December 18, 2001

No. 220800

Lenawee Circuit Court

LC No. 98-020212-DO

Before: Doctoroff, P.J., and Saad and Wilder, JJ.

PER CURIAM.

Following a bench trial, plaintiff was granted a divorce from defendant. In granting the divorce, the trial court ruled that the marital assets should be equally divided between the parties and also determined that plaintiff was entitled to rehabilitative spousal support in the amount of \$100 a week for a period of 130 weeks. Defendant appeals as of right. We affirm.

I

Defendant argues that because plaintiff failed to produce sufficient evidence that she was entitled to spousal support, the trial court abused its discretion in awarding it to plaintiff. We disagree. In a divorce action, this Court reviews the trial court's factual findings for clear error. *Beason v Beason*, 435 Mich 791, 805; 460 NW2d 207 (1990). 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. *Beason, supra*; *Draggoo v Draggoo*, 223 Mich App 415, 429; 566 NW2d 642 (1997). If the factual findings are upheld, we then must decide whether the dispositional ruling was fair and equitable in light of those facts. *Welling v Welling*, 233 Mich App 708, 709; 592 NW2d 822 (1999); *Draggoo, supra*. A dispositional ruling is discretionary and should be affirmed unless this Court is left with the firm conviction that the division was inequitable. *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993); *Welling, supra* at 709-710; *Draggoo, supra* at 430. In addition, the trial court has discretion to make an award of spousal support, *Denman v Denman*, 195 Mich App 109, 110; 489 NW2d 161 (1992); *Pelton v Pelton*, 167 Mich App 22, 27; 421 NW2d 560 (1988), and any such award is to be based on what is just and reasonable under the circumstances. *Maake v Maake*, 200 Mich App 184, 187; 503 NW2d 664 (1993).

In determining whether an award of spousal support is warranted, and if so, whether the amount and the duration of the award is appropriate, a trial court should consider the following factors: (1) the past relations and conduct of the parties; (2) the length of the marriage; (3) the abilities of the parties to work; (4) the source and amount of property awarded to the parties; (5) the parties' ages; (6) the abilities of the parties to pay spousal support; (7) the present situation of the parties; (8) the needs of the parties; (9) the parties' health; (10) the prior standard of living of the parties and whether either is responsible for the support of others; (11) contributions of the parties to the joint estate; (12) a party's fault in causing the divorce; (13) the effect of cohabitation on a party's financial status; and (14) general principles of equity. *Ianitelli v Ianitelli*, 199 Mich App 641, 644; 502 NW2d 691 (1993); *Thames v Thames*, 191 Mich App 299, 308; 477 NW2d 496 (1991).

In the instant case, a substantial amount of evidence was presented during trial regarding these factors. As a result of this evidence, the trial court found that during the course of the parties twenty-eight year marriage, defendant was the primary financial provider, whereas plaintiff was the primary care provider for the couple's children and home. The court also found that both parties were healthy<sup>1</sup> and had future income earning potential, but that at the time of the divorce, plaintiff's income was approximately half that of defendant. Thus, based on record, we are unable to find the trial court's factual findings to be clearly erroneous. *Beason, supra*; *Draggoo, supra* at 429.

Nonetheless, defendant contends that even if the factual findings of the relevant factors were supported by sufficient evidence, those findings do not demonstrate that plaintiff was entitled to spousal support. However, we find that the trial court made factual findings sufficient to support its decision. MCR 2.517(A)(2); *Ianitelli, supra*; *Thames, supra*. Specifically, we note defendant had twenty-eight years of marriage during which to build his career while plaintiff only worked outside of the home on a part-time basis, choosing instead to primarily maintain the parties' home and raise their children. Cf *Wiley v Wiley*, 214 Mich App 614, 615; 543 NW2d 64 (1995); *Maake, supra*. As a result, at the time of the divorce, defendant's income was almost twice that of plaintiff and defendant's earning power was significantly greater than that of plaintiff's. Cf *Wiley, supra* at 615-616; *Lee v Lee*, 191 Mich App 73, 80-81; 477 NW2d 429 (1991). Therefore, because the trial court properly assessed the *Ianitelli* and *Thames* factors, we conclude that, under the circumstances, the trial court's rehabilitative spousal support award of \$100 a week for 130 weeks was just, reasonable and within the court's discretion. *Magee v Magee*, 218 Mich App 158, 162; 553 NW2d 363 (1996); *Maake, supra*. See also MCL 552.23.

## II

Defendant also argues that the trial court improperly assessed the value of the marital home by ignoring defendant's evidence regarding the home's deteriorating state. Again, we disagree. In determining the value of the marital home, the court stated during trial that it

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<sup>1</sup> While defendant contends that his poor health and psychological problems affect his ability to earn income, defendant presented no medical evidence that his physical or psychological health was compromised as of the time of trial.

considered the evidence presented by defendant, but found the appraisals of the experts to be more reliable than the appraisal provided by defendant, a person who had no qualifications for making such an appraisal and who the court found to be incredible in this regard. Thus, the court determined the value of the home to be between the appraisal values provided by the two experts. As stated in *Draggoo, supra*, “[t]his Court gives special deference to a trial court’s findings when they are based on the credibility of the witnesses.” Cf *Everett v Everett*, 195 Mich App 50, 52-53; 489 NW2d 111 (1992). Accordingly, because defendant failed to demonstrate that the trial court’s factual findings resulted in a mistake as to the value of the marital home, *Beason, supra* at 804; *Draggoo, supra*, we find no error in the trial court’s valuation of the marital home.

### III

Finally, defendant argues that plaintiff should not have been awarded attorney fees. However, defendant failed to object to the award of attorney fees below. As such, this issue has not been preserved for appellate review. See *Jansen v Jansen*, 205 Mich App 169, 173; 517 NW2d 275 (1994). Unpreserved errors will not be reviewed by this Court unless lack of review would result in manifest injustice. *Milligan v Milligan*, 197 Mich App 665, 671; 496 NW2d 394 (1992). To this end, defendant has made no showing that manifest injustice would result from a lack of review; thus, we will not review this issue. *Id.*

Affirmed.

/s/ Martin M. Doctoroff  
/s/ Henry William Saad  
/s/ Kurtis T. Wilder