

STATE OF MICHIGAN
COURT OF APPEALS

KAREN J. HILL,

Plaintiff-Appellee,

v

RANDALL B. HILL,

Defendant-Appellant.

UNPUBLISHED

July 24, 2008

No. 276050

Saginaw Circuit Court

LC No. 01-040535-DM

Before: Sawyer, P.J., and Jansen and Hoekstra, JJ.

PER CURIAM.

In this divorce action, defendant appeals as of right the amended order of child support, which was entered after a judgment of divorce. Because the trial court only entered an order setting defendant's child support obligation as determined by application of the Michigan Child Support Formula (MCSF) for the year 2003, rather than for years 2002 through 2006 and thereafter, we remand for an order regarding all years at issue. In addition, because the trial court failed to make findings of fact in support of the property division, we remand for factual findings.

On appeal, defendant challenges both the trial court's property division and amended child support order. Regarding the latter, defendant asserts that he was denied the benefit of a correct application of the MCSF when the trial court failed to enter an order setting forth the level of child support for the periods before and after the year 2003.

Generally, a trial court shall order child support in an amount determined by application of the MCSF. MCL 552.605(2); *Stallworth v Stallworth*, 275 Mich App 282, 283-284; 738 NW2d 264 (2007). A review of the record establishes that the trial court only entered an order setting forth defendant's child support obligation in an amount determined by application of the MCSF for the year 2003. Thus, we remand for an amended order, to be consistent with the September 26, 2006 Friend of the Court report and recommendation, setting forth defendant's child support obligation for years 2002 through 2006 and thereafter.

With respect to the trial court's property division, the goal in distributing marital assets in a divorce proceeding is to reach an equitable distribution of property in light of all the circumstances. *Gates v Gates*, 256 Mich App 420, 423; 664 NW2d 231 (2003). A court should consider the following factors whenever relevant to the circumstances of the case: (1) duration of the marriage, (2) contributions of the parties to the marital estate, (3) age of the parties, (4)

health of the parties, (5) life status of the parties, (6) necessities and circumstances of the parties, (7) earning abilities of the parties, (8) past relations and conduct of the parties, and (9) general principles of equity. *Sparks v Sparks*, 440 Mich 141, 159-160; 485 NW2d 893 (1992).

The trial court's disposition of marital property is intimately related to its findings of fact. *Gates, supra* at 423. Thus, a trial court must make findings of fact in support of its property division, *Koy v Koy*, 274 Mich App 653, 660; 735 NW2d 665 (2007), and it must determine the value of property awarded when the value is in dispute, *Olson v Olson*, 256 Mich App 619, 627-628; 671 NW2d 64 (2003).

We agree with defendant that this case must be remanded for further findings of fact regarding the disposition and valuation of disputed assets. As defendant observes, the trial court did not resolve the parties' claims about hidden or missing assets, did not resolve valuation disputes regarding certain properties or state the dates it was using to value certain assets, and failed to mention some disputed asserts altogether. Without proper findings of fact, we cannot conclude whether the division of marital property is equitable. Accordingly, while retaining jurisdiction, we remand this case for findings of fact in support of the trial court's property award.

To aid the trial court on remand, we provide it with the following instructions. First, it shall make factual findings regarding each of the relevant *Sparks* factors. Second, the trial court shall find the value of each asset awarded in the judgment of divorce. And, in doing so, it shall resolve all factual disputes regarding the value of those assets. For example, the trial court shall determine whether plaintiff's withdrawals from her 401(k) were for reasonable expenses, whether the \$90,000 defendant contributed as a down payment on the marital home should be treated as separate property, whether defendant has a present interest in or is merely a future beneficiary of his mother's house in Bay City, and whether a portion of the money in defendant's credit union accounts belongs to his mother.¹ The trial court shall also state the date it uses to value the assets. Third, the trial court shall consider and make factual findings regarding all disputed assets not mentioned in the judgment of divorce, such as the value of plaintiff's jewelry and "book of business," whether defendant owned a \$50,000 certificate of deposit, and whether either party placed money into or removed money from the safe kept in the marital home. We further note that, upon making the necessary findings of fact, the trial court may, in its discretion, consider redistribution of assets or incorporate any assets not covered in the judgment of divorce as necessary to achieve an equitable distribution. See *Koy, supra* at 660.

¹ We emphasize that we merely provide examples of the factual disputes the trial court shall resolve on remand; our examples are not to be considered an exhaustive list of the factual findings to be made.

Remanded for further proceedings not inconsistent with this opinion. We retain jurisdiction.

/s/ David H. Sawyer

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra

Court of Appeals, State of Michigan

ORDER

KAREN J HILL v RANDALL B HILL

Docket No. 276050

LC No. 01-040535-DM

David H. Sawyer
Presiding Judge

Kathleen Jansen

Joel P. Hoekstra
Judges

Pursuant to the opinion issued concurrently with this order, this case is REMANDED for further proceedings consistent with the opinion of this Court. We retain jurisdiction.

Proceedings on remand in this matter shall commence within 28 days of the Clerk's certification of this order and they shall be given priority on remand until they are concluded, but not later than 84 days. As stated in the accompanying opinion, the trial court shall address all factual issues raised by the parties in this case and make the necessary findings of fact, and further, in its discretion, may consider redistribution of assets or incorporate any assets not covered in the judgment of divorce as necessary to achieve an equitable distribution.

The parties shall promptly file with this Court a copy of all papers filed on remand. Within seven days after entry, appellant shall file with this Court copies of all orders entered on remand.

The transcript of all proceedings on remand shall be prepared and filed within 21 days after completion of the proceedings.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 24 2008
Date

Sandra Schultz Mengel
Chief Clerk