

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-912

STEPHEN MCCORD BOWEN,
Husband,

Appellant,

v.

JESSICA VOLZ, f/k/a JESSICA
BOWEN, Wife,

Appellee.

On appeal from the Circuit Court for Duval County.
Jack M. Schemer, Judge.

April 11, 2019

PER CURIAM.

In this appeal of a final judgment of dissolution of marriage, the trial court divided the parties' marital business and distributed to each party a fifty percent interest due to the dearth of evidence presented on the company's actual worth. In spite of the insightful evidentiary comments from the circuit judge at trial, we agree with the Third District's decision in *Menendez v. Rodriguez-Menendez*, 871 So. 2d 951 (Fla. 3d DCA 2004), in which the Third District found that the parties' business asset was not properly valued by the court below. Accordingly, it held that "it was improper for the trial court to leave the parties as joint owners of this closely held business." *Id.* at 952. It rested its decision on *Robbins v. Robbins*,

549 So. 2d 1033 (Fla. 3d DCA 1989), in which the court observed that “granting a former spouse a shared interest in the stock of a closely held corporation has the effect of ‘requiring the former spouses to operate as business partners. Such a financial arrangement is intolerable.’” *Menendez*, 871 So. 2d at 952 (quoting *Robbins*, 549 So. 2d at 1033-34). The remedy in *Menendez*—which we endorse and apply in the present case—was as follows:

The parties must . . . on remand present proper valuation evidence for [the company] so that the trial court may, as the parties agree, award this asset to one of the spouses and “devise a plan of distribution which causes the least interference with the ongoing business of the corporation, yet which is practical and beneficial to both spouses.”

Id. (quoting *Robbins*, 549 So. 2d at 1034); *Accord Garrison v. Garrison*, 255 So. 3d 877, 878 (Fla. 4th DCA 2018).

We reject Appellant’s arguments concerning the valuation of the Lexus automobile.

AFFIRMED, in part, REVERSED, in part, and REMANDED for further proceedings consistent with this opinion.

B.L. THOMAS, C.J., and BILBREY and JAY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Joseph L. Mannikko of Mannikko & Baris, Macclenny, for Appellant.

James T. Keenan of James T. Keenan, P.A., Jacksonville, for Appellee.