

Commonwealth Of Kentucky

Court of Appeals

NO. 2001-CA-002691-MR

GLENN SPRADLIN

APPELLANT

v. APPEAL FROM FLOYD CIRCUIT COURT
HONORABLE JULIE PAXTON, JUDGE
ACTION NO. 00-CI-00245

ANNA SPRADLIN

APPELLEE

AND

NO. 2001-CA-002698-MR

ANNA SPRADLIN

CROSS-APPELLANT

v. CROSS-APPEAL FROM FLOYD CIRCUIT COURT
HONORABLE JULIE PAXTON, JUDGE
ACTION NO. 00-CI-00245

GLENN SPRADLIN

CROSS-APPELLEE

OPINION

AFFIRMING APPEAL NO. 2001-CA-002691-MR
AND CROSS-APPEAL NO. 2001-CA-002698-MR

** ** * * *

BEFORE: BAKER, COMBS, AND SCHRODER, JUDGES.

BAKER, JUDGE: Glenn Spradlin ("Glenn") brings a direct appeal (No. 2001-CA-002691-MR) and Anna Spradlin ("Anna") brings a cross-appeal (No. 2001-CA-002698-MR) from an October 25, 2001, order of the Floyd Circuit Court. We affirm.

Glenn and Anna were married for twenty-six years. They separated on or about January 15, 2000, and Glenn filed a petition for dissolution of marriage shortly thereafter. The parties own a considerable amount of private property, as well as three corporations: Big Foot Trucking, Big Foot Repair, and Big Foot Food and Fuel. The valuation of these corporations and the division thereof is disputed by the parties.

On July 16, 2001, the Floyd County Domestic Relations Commissioner (the "Commissioner") made findings of fact and conclusions of law with regards to evidence submitted by Glenn and Anna. The Commissioner denied Anna's request for maintenance based on the conclusion that Anna's job was secure, her income exceeded that of Glenn's, and she was to receive her IRA account, her government retirement, and the marital residence. The Commissioner awarded Glenn all the stock and ownership in Big Foot Repair, Big Foot Trucking, and Big Foot Food and Fuel and directed him to pay all indebtedness on the corporations. Glenn was also ordered to pay Anna \$50,000 for her marital interest in the "business real estate."

The Floyd Circuit Court entered an order adopting in part and reversing in part the recommendations of the Commissioner. The court determined that fair market value was the appropriate method for valuing the corporations and awarded all stock and ownership in the corporations to Glenn. The court also awarded permanent maintenance to Anna in the amount of \$700 per month until her remarriage or death. This appeal and cross-appeal follow.

In order to facilitate our resolution of this matter, we shall first address Anna's cross-appeal; discussion of Glenn's direct appeal will follow.

Cross-Appeal No. 2001-CA-002698-MR

Anna argues that the circuit court's decision to award Glenn all stock and ownership in the three corporations was improper because the award gave Glenn a disproportionately large percentage of the marital property. Specifically, Anna contends that she should have been awarded a fifty percent interest in Big Foot Food and Fuel, or that, in the alternative, Glenn should be required to sell the corporations and split the net proceeds with her. We disagree.

In divorce proceedings, it is well established that the judgment of the trial court will not be disturbed unless it is found to be clearly erroneous or "clearly contrary to the weight of evidence." Clark v. Clark, Ky. App., 782 S.W.2d 56,

58 (1990). When determining the proper division of marital property, "[t]here is not a presumption or requirement that marital property be equally divided." Russell v. Russell, Ky. App., 878 S.W.2d 24, 25 (1994). Rather, the trial court must divide marital property in conformity with Kentucky Revised Statute (KRS) 403.190, which requires that the division be in "just proportions."¹ In making determinations regarding the value of business property, "there is no single best method. The task of the appellate court is to determine whether the trial court's approach reasonably approximates the net value of the [corporation]." Id. at 59.

Based on the record and the circuit court's findings, we believe the marital property was justly divided. The court properly reviewed the factors set forth by KRS 403.190 in making its determination of the division. Likewise, the court properly determined that the "fair market value" method was suitable for appraising the value of the corporations. Under such method, Big Foot Trucking was valued at \$600,000 and Big Foot Repair was determined to be worth \$42,500. Big Foot Food and Fuel, the

¹ Pursuant to Kentucky Revised Statutes (KRS) 403.190, the following factors must be taken into consideration when dividing marital property: contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker; value of the property set apart to each spouse; duration of the marriage; and economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.

parties' fledgling business venture, was not assigned a value because it lacked a history of earnings.

Anna was awarded a fair proportion of the parties' marital property, including the family residence, money in a joint checking account, savings bonds, her IRA, her government retirement pension, one of the parties' two time-share condos in Pigeon Forge, Tennessee, and \$50,000 for her marital interest in the business real estate. Glenn was awarded the stock and ownership of the parties' three corporations, a lake house, various personal effects, and the other time-share condo. Glenn was also ordered to pay the debt on the corporations of approximately \$1,500,000. The personal debt of the parties was equitably divided between both Glenn and Anna.

Anna notes in her Prehearing Statement that the value of the marital property awarded to Glenn exceeds the value of the property awarded to her by \$500,000. We recognize the disparity in the values; however, we do not believe the circuit court's division of the marital property was "clearly contrary to the weight of evidence." Clark, 782 S.W.2d at 58. Although Glenn was awarded property worth more than that awarded to Anna, he was also ordered to pay the outstanding debt on the corporations of approximately \$1,500,000. Considering the substantial debt encumbering the marital property awarded to Glenn, we are of the opinion that the marital property was

justly divided. Therefore, we affirm the circuit court's decision regarding the division of marital property.

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Glenn argues that the circuit court's decision to award permanent maintenance to Anna was in error. We disagree.

The standard for determining whether an award of maintenance is proper is "whether the spouse seeking maintenance lacks sufficient property to meet her reasonable needs and is unable to support herself through appropriate employment *according to the standard of living established during the marriage.*" Weldon v. Weldon, Ky. App., 957 S.W.2d 283, 285 (1997); KRS 403.200.² As with determinations regarding the division of marital property, "maintenance determinations are within the sound discretion of the trial court." Clark, 782 S.W.2d at 60. The findings of the trial court will not be disturbed "unless absolute abuse is shown." Id.

In granting maintenance to Anna, the circuit court determined that, although Anna was "awarded property herein and is able to support herself through appropriate employment," she was not able to sufficiently "provide for her reasonable needs

² KRS 403.200 permits a grant of maintenance if the court finds that "the spouse seeking maintenance lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and is unable to support himself through appropriate employment. . ." The amount of maintenance awarded is dependant upon factors such as "the financial resources of the party seeking maintenance . . . ; the standard of living established during the marriage; the duration of the marriage; and the ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance."

based upon the standard of living which the parties enjoyed during their marriage." The court also determined that Glenn was "able to meet his needs notwithstanding the award of maintenance to [Anna]."

We do not believe that this determination was an abuse of discretion. The trial court properly weighed the factors dictated by KRS 403.200. Anna was awarded a just proportion of the marital property; however, she was not awarded any income-producing property. Considering the very comfortable standard of living that Anna and Glenn had established during their marriage, we are of the opinion that Anna was not awarded "sufficient property to meet her reasonable needs." Weldon, 957 S.W.2d at 285. As such, Anna would not be able to "support herself according to the standard of living established during the marriage." Id. Therefore, the circuit court's award of permanent maintenance in the amount of \$700 per month until Anna's remarriage or death was proper.

For the foregoing reasons, the Order of the Floyd Circuit Court is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT/CROSS-
APPELLEE:

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