

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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LAWRENCE JAMES LADEMAN,

Plaintiff-Appellee,

v

DIANE MARIE LADEMAN,

Defendant-Appellant.

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UNPUBLISHED

May 9, 1997

No. 184723

LC No. 94-412828

Before: Reilly, P.J., and Sawyer and W.E. Collette,\* JJ.

PER CURIAM.

Defendant Diane Marie Lademan appeals as of right from the March 17, 1995, judgment of divorce. We affirm.

Defendant's brief contains two issues that directly challenge the property division and the award of alimony. First, defendant argues that the trial court's findings of fact as to the exclusion of certain trust assets from the marital estate were clearly erroneous, constitute an abuse of discretion and a clear error of law. Second, defendant argues that the court "committed a clear error of law in dividing the assets and in the sum of alimony/spousal support awarded where it failed to consider all evidence presented and/or made it's [sic] decision with disregard for the evidence presented." Defendant's arguments are difficult to discern. Defendant does not identify the specific findings that she contends are clearly erroneous. Rather, the thrust of the first argument seems to be that under the circumstances, the court abused its discretion by not awarding the marital home to defendant "free and clear" of the mortgage held by plaintiff's family trust, and the thrust of the second argument seems to be that "substantial" alimony should have been awarded. Accordingly, we will address the arguments in this manner.

When a party challenges a trial court's division of property, we first review the trial court's findings of fact for clear error. *McDougal v McDougal*, 451 Mich 80, 87; 545 NW2d 357 (1996). If the trial court's factual findings are upheld, then we review the trial court's dispositional ruling for

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

fairness and equity in light of those facts. *Id.* The dispositional ruling should be affirmed unless we are left with the firm conviction that the division was inequitable. *Id.*

We have reviewed defendant's arguments with respect to the court's factual findings, and we are not persuaded that the findings are clearly erroneous. Furthermore, considering defendant's arguments concerning the property division and the spousal support award, we are not left with a firm conviction that the dispositional ruling was inequitable.

Contrary to defendant's assertion, the court did not disregard the plaintiff's interest in a trust created by his mother, who was deceased at the time of trial. The trust was worth approximately \$800,000, which is to be divided equally between plaintiff and his sister after their father's death. As recognized by defendant, plaintiff's father has a right to invade the principal during his lifetime. At the time of the trial, plaintiff's father was seventy-one years old, which defendant characterizes in her brief as "very elderly." According to defendant, "given [plaintiff's] father's age and wealth, [plaintiff's interest in the trust] was a virtual certainty." The trial court disagreed with defendant's position and recognized the difficulty in awarding defendant an amount for an interest in the trust when the amount plaintiff would ultimately receive was uncertain until his father's death.

Plaintiff's father might die tomorrow, God forbid, and the plaintiff would come into a significant amount of money. On the other hand, plaintiff's father might contract a long and catastrophic illness. Once again, God forbid, which can wipe out the trust.

The court stated that it considered "these potentials" in its division of property and the award of alimony. Under the circumstances, we are not left with a firm conviction that the court's handling of plaintiff's interest in the trust was improper or that the property division as a whole was inequitable.

We are also not left with a firm conviction that the award of alimony was inadequate. The court expressly considered the conduct of the parties, the length of the marriage, the ability of the parties to work, the source and amount of property awarded, the ages of the parties, present situation and needs, health, the standard of living to which the parties have become accustomed, and equity. The court ordered plaintiff to pay \$200 per week for five years from the date of the judgment. Considering the circumstances, particularly the substantial liabilities that plaintiff assumed under the judgment, we are not left with a firm conviction that the award of alimony was inequitable.

Defendant also argues that the trial judge's "exhortation that he preferred not to hear evidence of fault in the trial of this matter constitutes an abuse of discretion and a clear error of the law." We have read, in context, the court's statements to the parties with regard to presentation of evidence concerning fault and find no legal error or abuse of discretion. The court did not preclude the parties from admitting evidence regarding fault, and expressly considered the issue in making its findings. Defendant's claim that the court proceedings were "irregular", warranting a new trial, is without merit.

Affirmed.

/s/ Maureen Pulte Reilly

/s/ David H. Sawyer

/s/ William E. Collette