

STATE OF MICHIGAN  
COURT OF APPEALS

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MARA KNASIAK,

Plaintiff-Appellee,

v

BERNARD KNASIAK,

Defendant-Appellant.

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UNPUBLISHED

December 19, 1997

No. 192582

Washtenaw Circuit Court

LC No. 94-001980-DO

Before: Young, P.J., and Markman and Smolenski, JJ.

PER CURIAM.

Defendant appeals as of right a judgment of divorce awarding plaintiff a greater share of the proceeds of the liquidated marital estate. We affirm.

Defendant first argues that the trial court improperly focused on fault in making its property disposition ruling, and that the resulting distribution was therefore inequitable. He also contends that the trial court's factual findings on various issues were not supported by the record. We find no error.

When reviewing a dispositional ruling in a divorce case, this Court must first "review the trial court's findings of fact for clear error and then decide whether the dispositional ruling was fair and equitable in light of the facts." *Hanaway v Hanaway*, 208 Mich App 278, 292; 527 NW2d 792 (1995). Although divisions of property are not governed by specific rules, the Michigan Supreme Court has established a set of factors to assess in determining whether the interests of justice have been served: "(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 593 (1992). A trial court's dispositional ruling should be affirmed unless this Court is left with the "firm conviction that the division was inequitable." *Id.* at 152.

We first reject defendant's claim that the trial court's factual findings were not supported by the evidence. The testimony elicited at trial fully supported the trial court's findings that defendant subjected plaintiff to physical and mental abuse, that plaintiff was continually harassed during the course of the

divorce proceedings, and that plaintiff appeared to be “almost dysfunctional” at trial and would need counseling as a result of her abusive relationship with defendant. Having reviewed the record, we cannot say that the trial court clearly erred in making its factual findings on these issues.

We also disagree with defendant’s claim that the trial court, in making its property disposition ruling, gave disproportionate weight to defendant’s fault in causing the breakdown of the marriage. The trial court cited plaintiff’s age, her physical and emotional health, the possibility of continuing harassment from defendant’s relatives, the past relations and conduct between the parties, including defendant’s intimidation and abuse, and plaintiff’s employment prospects in support of its decision. The trial court also noted that, but for defendant’s incarceration, it would have awarded plaintiff alimony. Contrary to defendant’s assertion, the trial court did not use defendant’s fault as a punitive basis for an inequitable division. While the trial court did not expressly mention in its written opinion that defendant brought the marital home as well as twenty-five acres of real property into the marriage, the court acknowledged that defendant had been the primary wage earner. The trial court also recognized and touched on the remaining *Sparks* factors. Bearing in mind the unusual circumstances of this case, we are not firmly convinced that the trial court’s distribution of the liquidated marital estate was inequitable.

Defendant next argues that the trial court improperly interfered with his right to cross-examine plaintiff. We disagree. Although parties have a right to cross-examine adverse witnesses at trial, *Hayes v Coleman*, 338 Mich 371, 380; 61 NW2d 634, 639 (1953), a trial court has the duty and the authority to “exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence.” MRE 611(a). We find no abuse of discretion in the trial court’s reasonable attempts to limit defendant’s cross-examination to relevant issues and to prevent defendant from harassing plaintiff. See *Phillips v Mazda Motor Manufacturing (USA) Corp*, 204 Mich App 401, 415; 516 NW2d 502 (1994).

Finally, defendant contends that reversal is mandated because the trial court failed in its opinion to account for items of personal property that defendant claimed were missing from the marital estate. This claim is without merit. Defendant had the opportunity below to present evidence of the existence and value of such items in a manner conducive to division by the trial court. However, he failed to do so. Consequently, the trial court ordered that the parties retain the personal property already in their possession or control. Defendant has failed on appeal to present any basis for disturbing that decision.

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Stephen J. Markman

/s/ Michael R. Smolenski