

STATE OF MICHIGAN
COURT OF APPEALS

DEBORAH M. CORCORAN,

Plaintiff-Counterdefendant-Appellee,

v

MARTIN L. CORCORAN,

Defendant-Counterplaintiff-Appellant.

UNPUBLISHED
November 9, 1999

No. 215484
Genesee Circuit Court
LC No. 95-180431 DM

Before: Kelly, P.J., and Jansen and White, JJ.

JANSEN, J. (concurring in part and dissenting in part).

I concur in part III of the majority's opinion concerning the issues of alimony, child support (including parochial school tuition), and attorney fees. I can reluctantly join in part I of the majority's opinion since Benjamin has now attained the age of majority and any custodial issue as to him is moot and, as stated by the majority, the record and the issues as framed by the parties make remand on the custodial and visitation issues unnecessary. I would caution that the trial court's findings are too cursory for meaningful appellate review and that this would normally require remand to the trial court for consideration of all the statutory factors. See, e.g., *Ireland v Smith*, 451 Mich 457, 468-469; 547 NW2d 686 (1996); *Fletcher v Fletcher*, 447 Mich 871, 888-889; 526 NW2d 889 (1994).

I cannot, however, join in part II concerning the issue of the trial court's valuation of defendant's interests in Wolverine and Cork.

Regarding the valuation of defendant's interests in the family businesses, the trial court stated: [T]he Court [has] always been of a mind in this case that the two extremes were not appropriate and I have added up the numbers that Mr. Zorn . . . has put forth for Wolverine at [\$]226,000 and [at] [\$]104,000 of the retained earnings or retained monies in any event, and at [Cork] of \$125,800 with a retained amount of \$131,000, and I added that up to be an amount of \$586,800.

Contrasted with the amount apparently suggested by . . . Mr. Milhouse for the values of those assets at \$94,500. So one can see readily we have a huge disparity of \$492,300 in the value assigned to these assets by the respective accountants.

I added them up and divided by two and I'm assigning the values at \$340,655, and that is the amount Mrs. Corcoran accordingly should receive. . . . \$100,000 to be paid within 90 days and that leaves I believe [\$]24,000 a year thereafter for the next 10 years for her property distributions

As correctly noted by the majority, the trial court found that there was a "huge disparity" in the evaluations of the businesses as presented by Zorn and Milhouse, and that "the two extremes were not appropriate." The trial court then determined that the value of defendant's interests in the businesses was \$340,655, the average of the values espoused by the opposing parties.

Defendant contends that, in arriving at a valuation of the businesses by simply taking the average of the two figures presented by the parties' experts, the trial court abdicated its responsibility to make factual findings. I agree. MCR 2.517(A) requires the trial court to make brief, definite, and pertinent findings and conclusions on the contested matters without over elaboration of detail or particularization of facts, but the trial court is required to "find the facts specially." MCR 2.517(A)(1).

In the present case, the trial court made *no* factual findings with respect to the valuation of the businesses and defendant's interests in the businesses. There is no way to determine from the trial court's statement on the record whether either, or which, of the two methods of valuation was valid. Rather, the trial court only calculated the average of the two figures presented by the parties' experts. I do not find this to be sufficient fact finding because the trial court should have determined which expert used the appropriate method of valuation, especially considering that the methods used resulted in such disparate valuations. Further, the trial court stated that the two "extremes" were not appropriate, but it did not find what method of valuation would have been more appropriate. Thus, I would remand for the trial court to determine the appropriate method of valuation of the two businesses.

Defendant's additional argument that the trial court erred in incorporating into the valuation the \$104,000 and \$131,000 in undistributed earnings from Wolverine and Cork respectively would also have to be reconsidered on remand. Both of the experts were in disagreement regarding whether the undistributed income should be added to their calculations of the businesses. Thus, the trial court should have resolved this credibility issue and determined the appropriate method of valuation as well as whether it was appropriate to include the undistributed earnings in calculating the valuation of the businesses. The trial court's failure to make factual findings in this regard compel a remand for further consideration.

I agree with the majority insofar as it holds that the trial court did not err in considering defendant's interests in the two family businesses to be marital property, but believe a remand is in

order for the trial court to determine the proper valuation of the businesses and well as whether the undistributed earnings should have been included in the valuation.

I would remand for further proceedings consistent with my dissenting opinion.

/s/ Kathleen Jansen