

STATE OF MICHIGAN
COURT OF APPEALS

JENNIFER LYNN PROFFITT,

Plaintiff-Appellant,

v

RODNEY MITCHELL PROFFITT,

Defendant-Appellee.

UNPUBLISHED

February 1, 2002

No. 226849

Lenawee Circuit Court

LC No. 99-021605-DO

Before: Sawyer, P.J., and O'Connell and Zahra, JJ.

MEMORANDUM.

Plaintiff appeals as of right the judgment of divorce entered after trial. We affirm.

The parties were married on September 30, 1995, and did not have children. The sole issue for trial was the division of real property. Defendant had received a settlement of \$83,901.00 for injuries sustained in an automobile accident that occurred prior to the marriage. The parties used a portion of that settlement to purchase one house, then sold that house to acquire a second house. The parties stipulated that the house was worth \$127,500, and that the outstanding mortgage was \$71,000. The court awarded the house to defendant, stating that it was returning the property that he brought into the marriage.

This Court will review dispositive rulings in a divorce case to determine if they are fair and equitable in light of the facts. *Dragoo v Dragoo*, 223 Mich App 415, 429-430; 566 NW2d 642 (1997). A dispositional ruling is discretionary and should be affirmed unless this Court is left with a firm conviction that the distribution was inequitable. *Id.* When apportioning a marital estate, the trial court's goal is to reach an equitable division in light of all the circumstances. *Byington v Byington*, 224 Mich App 103, 114; 568 NW2d 141 (1997). The court should consider the duration of the marriage, the contribution of each party to the marital estate, each party's station in life, each party's earning ability, each party's age, health, and needs, fault or past misconduct, and any other equitable circumstance. *Sparks v Sparks*, 440 Mich 141, 158-160; 485 NW2d 893 (1992).

In *Lee v Lee*, 191 Mich App 73; 477 NW2d 429 (1991), this Court held that to the extent that the proceeds from a personal injury action represented payment for pain and suffering, as opposed to lost wages, the proceeds are separate property. Separate property is subject to division under MCL 552.23 and MCL 552.401, but only if the remaining property was

insufficient to provide suitable support and maintenance of the other party, or if the party contributed to the acquisition, improvement, or accumulation of the property.

The trial court reviewed the relevant factors in awarding the house to defendant. There is no showing that the trial court abused its discretion in making this award.

Affirmed.

/s/ David H. Sawyer

/s/ Peter D. O'Connell

/s/ Brian K. Zahra