

STATE OF MICHIGAN  
COURT OF APPEALS

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MARY K. SYMOENS, a/k/a MARY K.  
KINDRED,

UNPUBLISHED  
October 26, 2010

Plaintiff-Appellee,

V

GARY E. SYMOENS,

No. 293323  
Barry Circuit Court  
LC No. 08-000595-DO

Defendant-Appellant.

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Before: ZAHRA, P.J., and TALBOT and METER, JJ.

PER CURIAM.

Defendant appeals as of right from the judgment of divorce entered by the trial court. Specifically, defendant challenges the trial court's decisions concerning the valuation of the equity and mortgage balance of marital home; the alleged inclusion of defendant's separate, pre-marital property as marital property; an alleged encumbrance that would reduce the appraised value of a John Deere loader; and the valuation of plaintiff's defined contribution accounts. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

We first review the trial court's findings of fact for clear error. *Sparks v Sparks*, 440 Mich 141, 151; 485 NW2d 893 (1992). Then, "[i]f the findings of fact are upheld, the appellate court must decide whether the dispositive ruling was fair and equitable in light of those facts." *Id.* at 151-152. The trial court's ruling should be affirmed unless we are left with the firm conviction that the division was inequitable. *Id.* at 152.

The valuation of the marital home is a finding of fact. The trial court did not clearly err in selecting one of the four appraisals as the most appropriate value. The value was neither the highest nor the lowest and, as plaintiff points out, represents the figure closest to the average of the four appraisals. The court gave as a reason for selecting this value that it was familiar with the work of that appraiser and found him to be the most credible witness. "Where a trial court's valuation of a marital asset is within the range established by the proofs, no clear error is present." *Jansen v Jansen*, 205 Mich App 169, 171; 517 NW2d 275 (1994).

Defendant's other arguments are not supported by the facts in the record. Defendant fails to acknowledge that the trial court calculated the home's equity by considering both the first and second mortgages. As for the alleged "separate property" items, defendant does not identify which items on the personal property list are his separate property. The list itemizing the

personal property has two columns of initials, headed: “Who wants” and “who bought.” Except for a few items marked as separate property, there is no indication of when the things were bought, and the fact that some items are marked as separate leads to the inference that the rest are marital property. Furthermore, the cover letter to the list states that the appraisal was performed at defendant’s request. Defendant can hardly complain that property was erroneously included in the list he submitted for appraisal. Defendant’s \$12,000 credit account debt is evident in the record but there is no mention of it being a lien against or otherwise encumbering the John Deere loader. The only evidence in the transcript is plaintiff’s testimony that there was no debt on the loader. Nor does defendant point to any such proof. A party must support factual statements with specific references to the record. *Begin v Mich Bell Tel Co*, 284 Mich App 581, 590; 773 NW2d 271 (2009).

Finally, the trial court did not clearly err in assigning the lower values to the retirement accounts. Although defendant’s trial brief included exhibits showing a higher amount, defendant’s own trial exhibits were statements from later dates, closer to trial, that showed the accounts had decreased in value since the time the trial brief was filed. The trial court was correct in taking the values closest to the date of trial.

Affirmed.

/s/ Brian K. Zahra  
/s/ Michael J. Talbot  
/s/ Patrick M. Meter