

STATE OF MICHIGAN
COURT OF APPEALS

DIANE M. HIGGINS,
Plaintiff-Appellant,

UNPUBLISHED
June 20, 2017

v

LELAND W. HIGGINS,
Defendant-Appellee.

No. 333723
Sanilac Circuit Court
Family Division
LC No. 15-036180-DO

Before: FORT HOOD, P.J., and CAVANAGH and RONAYNE KRAUSE, JJ.

PER CURIAM.

Plaintiff appeals as of right from a judgment of divorce, contesting the court's division of marital assets. We affirm.

The parties were married on January 5, 2004 and divorced on June 15, 2016. Each party owned real property before the marriage that they rented out during the marriage and the rental income was deposited into their joint checking account. The parties purchased the marital home in 2007 for \$255,000. Plaintiff testified that she provided the \$100,000 down payment from her personal funds, with the rest of the purchase price coming from a \$155,000 mortgage. Plaintiff further testified that she paid the monthly mortgage payments from her personal account. The trial court ordered the marital home to be sold and the parties to equally share the balance of the proceeds remaining after payment of the expenses related to the sale and after satisfying the outstanding mortgage debt.

On appeal, plaintiff argues that the trial court's equal distribution of the proceeds from the sale of the marital home was inequitable in light of the relative contributions made by each party to the property and the marital estate. We disagree.

In a divorce case, this Court must first review the trial court's findings of fact regarding the valuations of particular marital assets under the clearly erroneous standard. A finding is clearly erroneous if, after a review of the entire record, the reviewing court is left with the definite and firm conviction that a mistake has been made. This Court gives special deference to a trial court's findings when they are based on the credibility of the witnesses. If the trial court's findings of fact are upheld, this Court must decide whether the dispositive ruling was fair and equitable in light of those facts. The dispositional ruling is

discretionary and should be affirmed unless this Court is left with the firm conviction that the division was inequitable. [*Draggoo v Draggoo*, 223 Mich App 415, 429-430; 566 NW2d 642 (1997) (citations omitted).]

When dividing marital assets at the time of a divorce, “the goal is to reach an equitable division in light of all the circumstances.” *McNamara v Horner*, 249 Mich App 177, 188; 642 NW2d 385 (2002). Further, “[i]t is not desirable, or feasible, for us to establish a rigid framework for applying the relevant factors. The trial court is given broad discretion in fashioning its rulings and there can be no strict mathematical formulations.” *Sparks v Sparks*, 440 Mich 141, 158-159; 485 NW2d 893 (1992).

The record does not support plaintiff’s argument that the trial court’s division of the marital estate was inequitable. Plaintiff argues that she made the larger financial contribution to the marital estate and therefore should be awarded a larger portion of the proceeds from the sale of the marital home. The evidence does show that plaintiff contributed more actual capital toward the purchase of the marital home. But defendant contributed to the marital estate in various other ways, including by holding a full-time job while also supplementing their income as a tractor painter, automotive repairman, and sometime provider of firewood harvested directly from the marital property—a side job he estimated brought in about \$5,000 the previous year. Testimony also established that rental payments from the parties’ various properties and other income generated from defendant’s employment and side jobs were deposited into the parties’ joint checking account. Plaintiff testified that the joint checking account was primarily used to pay household bills for the marital home like gas and electricity, as well as everyday living expenses like insurance and groceries. Further, defendant’s health insurance covered plaintiff during the marriage. The impact of health insurance on a married couple’s financial health is broad, even though its benefits are realized in funds not expended. Defendant also testified that he used \$16,000 of a \$75,000 loan he secured to pay for a new roof on the marital home and to purchase a mobile home that was placed on the marital property for use as a rental property. Further, defendant cleared the swamp land and brush on the marital property so that it would be more useable, and he also moved a horse shelter to the property. In other words, as the trial court held, while plaintiff may have made the larger financial contribution, defendant also made significant contributions in “other ways” to the property and marital estate.

Again, achieving an equitable division of marital assets is the motivating principle underscoring the division of marital assets at the time of divorce. *McNamara*, 249 Mich App at 188. Equity speaks of fairness, not mathematical equivalency. *Id.* And, in this case, in light of all of the circumstances, we are not left with the firm conviction that the trial court’s division was inequitable. See *Draggoo*, 223 Mich App at 429-430.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Mark J. Cavanagh
/s/ Amy Ronayne Krause