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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1876**

In re the Marriage of:

Beatrice De Ann Steele,
Respondent,

vs.

Steven Paul Steele,
Appellant.

**Filed October 7, 2019
Affirmed in part, reversed in part, and remanded
Jesson, Judge**

Freeborn County District Court
File No. 24-FA-16-905

Kent Spellman, Albert Lea, Minnesota (for respondent)

Rebecca A. Chaffee, Best & Flanagan LLP, Minneapolis, Minnesota (for appellant)

Considered and decided by Jesson, Presiding Judge; Worke, Judge; and Bratvold, Judge.

UNPUBLISHED OPINION

JESSON, Judge

After nearly 30 years of marriage, during which time they accumulated property valued in excess of \$2.5 million, appellant Steven Paul Steele (husband) and respondent Beatrice De Ann Steele (wife) dissolved their marriage. Husband challenges the district

court's discovery sanction preventing him from presenting evidence related to his claims that most of the property was "nonmarital," meaning that the property should be allotted solely to him, rather than distributed between the parties based on equity and fairness. And husband argues that even with the limited record before it, the district court erred in its determination of what constituted marital property. We conclude that the district court did not abuse its discretion in sanctioning husband and did not err by classifying the majority of the parties' estate as marital property. But because the district court incorrectly classified four properties and some farm equipment as marital property rather than husband's nonmarital property, and erroneously calculated the rental value for a separate piece of property, we affirm in part, reverse in part, and remand.

FACTS

Appellant Steven Paul Steele (husband) married respondent Beatrice De Ann Steele (wife) in 1984.¹ During the marriage, wife worked as a machine operator and husband farmed. On the side, husband lent money to people seeking to purchase residential and commercial properties who were unable to obtain financing from banks. Although husband primarily made the loans, his reading and writing abilities are limited. As a result, wife assisted with the paperwork of husband's various business dealings and the farming operations.

Throughout their marriage, husband and wife accumulated a significant estate, valued in excess of \$2.5 million. Their assets include ownership interests in 21 real

¹ The parties share no joint children.

properties (some as a result of bequests), ten vehicles, several pieces of farm equipment, and numerous bank accounts, investments, and retirement accounts.

After nearly 30 years together, in 2013, husband and wife separated. Three years later, in June 2016, wife commenced the dissolution proceeding. Beginning early in the proceedings, husband asserted that much of the estate was his nonmarital property. But as discovery progressed, attempts to compile evidence to assess husband's nonmarital claims proved difficult. The district court extended initial discovery deadlines by six months, and by another two months after the parties agreed on an appraiser to value the real property. And based on a stipulation between the parties, the district court ordered that "[a]ll documents, evidence, or information not disclosed by parties by June 12, 2017 shall be excluded from trial, including but not limited to all nonmarital claims asserted by either party."

On the June 12 discovery deadline date, the parties appeared for a hearing to discuss wife's motion requesting the appointment of a receiver² and other relief. Husband's attorney also requested the appointment of a receiver, without husband's consent, due to the size of the marital estate as well as the challenges of obtaining information from his client. And wife requested that the district court compel husband to fully and completely respond within 30 days to her request for interrogatories and the production of documents, many of which related to husband's nonmarital claims. The district court issued an order

² A receiver is "a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, and, if authorized by this chapter or order of the court, dispose of receivership property." Minn. Stat. § 576.21(p) (2018).

asking the parties to submit the name of a person mutually acceptable to both parties to serve as receiver within ten days. The district court further directed husband to fully and completely respond to wife's discovery requests within 30 days from the order.

When husband failed to comply within 30 days, the district court issued an order prohibiting husband from introducing any evidence at trial that he did not disclose to wife or that conflicted with wife's evidence. Further, based on his failure to comply with discovery demands and court orders, the district court ordered that "[husband] is prohibited from introducing any evidence related to nonmarital claims at the time of trial."

Two months later, a three-day trial began on the issues of spousal maintenance and property division. At the time of the trial, the last joint tax return filed was from 2012, showing the parties' annual income as \$16,742 and the net income from farming operations as \$192,782. According to wife, she filed a separate 2016 tax return, indicating that she received \$1,247 per month in social security payments, and \$366 per month from her pension. Wife also testified about putting money into the parties' homestead, assisting with the farming operations, trying to keep records of loans that husband made, and attempting to collect rent from debtors. Wife submitted several exhibits, including deeds for properties, bank statements, debt information, and several exhibits regarding four properties that were conveyed by husband's father's will to husband's mother, with the remainder interest to husband and brother.

After the second day of trial—and after wife rested her case—husband's attorney requested to have husband's nonmarital claims considered. Specifically, he asked for a continuance to allow husband to present evidence, third-party testimony, and expert

testimony as to his nonmarital claims because it was “unjust and inequitable” to not allow him to do so.

The district court denied husband’s request. In doing so, the district court explained that over 17 months passed between the commencement of the dissolution proceeding and the court’s discovery sanction. And the district court noted that no discovery was presented regarding his nonmarital claims between June 2016 and the end of October 2017. But the district court stated that it would give husband some “latitude . . . to talk about some equity.”

Husband then presented his case. Regarding his income, husband testified that he received approximately \$900 per month in social security payments. But he testified that the money he received from his pension, wages, and IRA distributions was not income. And husband testified that he expected a loss from farming in 2018. But he acknowledged that there were some years during which he did not complete tax returns (2013 through 2017) that he may have had a gain. Throughout his testimony, husband maintained that all assets were his nonmarital property, and wife should receive nothing. Husband asserted that he bought the real property at issue with money his father gave him, but presented no other evidence to support his claim.

The district court denied husband any award of nonmarital property, finding that the entire estate was marital property. Accordingly, the district court distributed the estate between the parties. In doing so, the district court found that the division of assets provided a sufficient basis for each party to support themselves and did not award wife spousal maintenance. Husband appeals.

DECISION

Husband first challenges the district court's discovery sanction prohibiting him from presenting evidence supporting his nonmarital claims. Second, husband alleges that the district court erred by classifying all of the property as marital property and that the division of marital property is unfair and inequitable. We address each argument in turn.

I. The district court did not abuse its discretion by preventing husband from introducing evidence regarding nonmarital property claims as a sanction.

Husband contends that the district court abused its discretion when it sanctioned him for failing to comply with discovery orders by preventing him from presenting evidence related to his nonmarital property claims. We review the district court's discovery-related orders for an abuse of discretion. *Shetka v. Kueppers, Kueppers, Von Feldt & Salmen*, 454 N.W.2d 916, 921 (Minn. 1990).

Rule 37 of the Minnesota Rules of Civil Procedure empowers district courts to issue orders compelling discovery and impose sanctions if those orders are not followed. Minn. R. Civ. P. 37.01, .02. In cases where a party fails to comply with a discovery order the district court may issue “[a]n order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence.” Minn. R. Civ. P. 37.02(b)(2); *see also* Minn. R. Civ. P. 16.06 (“If a party or party’s attorney fails to obey a scheduling or pretrial order . . . the court, upon motion or upon its own initiative, may make such orders with regard thereto as are just, including any of the orders provided in Rule 37.02(b)(2), (3), (4).”).

Here, after husband failed to comply with wife’s initial discovery requests, wife filed a motion to compel discovery. In response, the district court issued an order—based on the parties’ stipulation—stating that “[a]ll documents, evidence, or information not disclosed by parties by June 12, 2017 shall be excluded from trial, including but not limited to all nonmarital claims asserted by either party.” And when husband did not comply with this order, the district court issued a second order directing husband to fulfill his discovery obligations within 30 days. When husband again failed to produce the requested discovery, the district court sanctioned husband by prohibiting him from presenting any evidence, which had not already been disclosed, in support of his nonmarital property claims.

This sanction falls squarely within the district court’s discretion. Husband failed to comply with two discovery orders issued by the district court, including one order based on a stipulation between the parties. The order based on the stipulation clearly stated that not complying with discovery requests and deadlines would result in the exclusion of any nonmarital property claims. Because husband failed to comply with the district court’s discovery orders, and because the penalty for noncompliance was clearly outlined, the district court did not abuse its discretion by sanctioning husband. *See* Minn. R. Civ. P. 37.02(b).

Still, husband argues that any failure to produce discovery was excusable neglect. Excusable neglect is a basis for relief for clients when they suffer from the negligence of their attorneys. *See Parker v. O’Phelan*, 414 N.W.2d 534, 537 (Minn. App. 1987), *aff’d*, 428 N.W.2d 361 (Minn. 1988). Minnesota Rule of Civil Procedure 6.02 allows a court to extend the deadlines for completion of an act “upon motion” made after the expiration of

the specified time period “where the failure to act was the result of excusable neglect.” Four elements are required to establish excusable neglect: (1) there is a reasonable defense on the merits; (2) there is a reasonable excuse for the failure to file; (3) the party acted with due diligence after notice; and (4) no substantial prejudice results to other parties. *Lake Superior Ctr. Auth. v. Hammel, Green & Abrahamson, Inc.*, 715 N.W.2d 458, 471 (Minn. App. 2006), *review denied* (Minn. Aug. 23, 2006). We review a district court’s application of this doctrine for an abuse of discretion. *Id.*

Here, the district court addressed only the second element, finding that “[d]espite the benefit of three competent attorneys, there was no compliance with [wife’s] continued requests for documentation regarding alleged nonmarital assets.” As a result, it concluded husband lacked a reasonable excuse. We agree. Although husband asserts that his limited ability to read or write is a reasonable excuse for his noncompliance with discovery deadlines and multiple court orders, competent attorneys represented husband throughout the dissolution proceeding. As such, husband’s limited ability to read or write is not a reasonable excuse for failing to comply with discovery deadlines for over 17 months, and husband has not demonstrated excusable neglect. Accordingly, we conclude that the district court did not abuse its discretion when it prevented husband from introducing evidence to support his nonmarital property claims as a discovery sanction.

II. The district court erred in certain aspects of its classification and division of the marital estate.

Having determined that the district court appropriately exercised its discretion by sanctioning husband for discovery violations, we turn to husband’s challenges regarding

the district court's classification of all assets as marital property and the resulting division of the marital estate. Specifically, husband argues that even based on evidence introduced by wife, the district court erroneously awarded wife an interest in certain nonmarital property, excluded marital debt, and improperly valued assets. Below, we first evaluate the district court's classification of property. We then turn to its allocation of the marital estate between husband and wife.

Classification of Assets as Marital Property

All property acquired by either spouse during the marriage is presumed to be marital property, without regard to the form of ownership. Minn. Stat. § 518.003, subd. 3b (2018). But in some instances, certain property may be classified as nonmarital property. Property can be appropriately designated as nonmarital property if it meets one of the following conditions:

- (a) is acquired as a gift, bequest, devise or inheritance made by a third party to one but not to the other spouse;
- (b) is acquired before the marriage;
- (c) is acquired in exchange for or is the increase in value of property which is described in clauses (a), (b), (d), and (e);
- (d) is acquired by a spouse after the valuation date; or
- (e) is excluded by a valid antenuptial contract.

Id. To overcome the presumption that property is marital, a party must demonstrate, by a preponderance of the evidence, that the property meets the criteria to be classified as nonmarital. *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997); *see also* Minn. Stat. § 518.003, subd. 3b. Whether property is marital or nonmarital is a question of law subject to de novo review. *Olsen*, 562 N.W.2d at 800.

Here, the district court found that both husband and wife “made actual and substantial contributions to the acquisition of their marital estate.” And because it found that the marital estate is “co-owned by virtue of the actual contributions of each party to the acquisition of the whole and by virtue of the co-ownership property interest granted to spouses by law,” the district court treated the entire marital estate as marital property.

Husband identifies certain assets that he contends the district court incorrectly classified as marital property. In particular, husband asserts that the homestead, 80 acres of land, certain third-party properties, farm equipment, and properties devised to husband through his father’s will are nonmarital property.³ We review each of these claims.

Homestead and 80 Acres

Husband argues that he provided wife with discovery by the deadline regarding his nonmarital claims to the homestead and a piece of property referred to as 80 acres, and that because he acquired both properties before the marriage, they are his nonmarital property. Although the record contains some documentation pertaining to both of these properties, we conclude that husband did not demonstrate by a preponderance of the evidence that the homestead and the 80 acres were his nonmarital property. *Id.* The record contains evidence

³ In addition to these assets, in his brief, husband identifies several other pieces of property as nonmarital property. But husband points to no evidence, other than his general testimony, to support his assertion that those properties are nonmarital. While husband explains that the lack of evidence regarding his nonmarital claims to these properties is a result of the district court’s discovery sanction, we note that husband failed to avail himself of opportunities during discovery to present evidence in support of his claims. And we have concluded that the discovery sanction was within the district court’s discretion. Because no evidence supports husband’s assertion that the other identified properties are nonmarital, the district court correctly classified them as marital property.

that both husband and wife signed two quitclaim deeds—one for each property—in 2006, conveying both properties to a trust for which both husband and wife served as trustees. And wife testified that she contributed money to improving the homestead and attempted to assist husband in farming and “keeping track of bookkeeping.” As such, we conclude that based on the limited record before it, the district court correctly classified the homestead and the 80 acres as marital property.

Third-Party Properties

Husband contends that he acquired several properties with his nonmarital resources, which were titled in third-parties’ names or for which there were contracts for deed. The only evidence husband presented regarding these third-party properties was his testimony that he bought them with funds he received from his father. Husband did not present any documentation to corroborate his testimony. Because the properties were purchased during the marriage and husband did not establish by a preponderance of the evidence that the properties are nonmarital property, the district court appropriately classified the properties as marital property. *See* Minn. Stat. § 518.003, subd. 3b (defining marital property as “property, real or personal, . . . acquired by the parties, or either of them . . . at any time during the existence of the marriage relation between them”).

Properties and Farm Equipment from Husband’s Father’s Will

The district court awarded wife, as marital property, 50% of the value of four properties in which husband had a 50% remainder interest, subject to a life estate held by

his mother.⁴ Additionally, the district court granted wife 50% of the value of husband's farm equipment. Husband argues that these awards were in error because the four properties and farm equipment were bequests and thus nonmarital property. We agree.

Though husband was precluded from arguing his nonmarital claims to the district court, wife submitted evidence that showed the four properties and farm equipment were husband's inherited property. Husband's father's will left "[a]ll farm machinery and equipment to sons, [husband] and [brother]." Additionally, the will left the four properties to husband's mother "for her lifetime and thereafter to [husband] and [brother] as tenants in common, in fee simple, absolutely and forever." Accordingly, the farm equipment left to husband and brother, and the real-property remainder interest left to husband and brother, are inheritance. As such, these four pieces of real property and any farm machinery and equipment previously belonging to husband's father are nonmarital property. Minn. Stat. § 518.003, subd. 3b(a).

Although these properties and the farm equipment are husband's nonmarital property, the district court can still award wife a portion of their value to prevent unfair hardship. *See* Minn. Stat. § 518.58, subd. 2 (2018) (stating that the court may "apportion up to one-half of the property otherwise excluded" as nonmarital property to prevent unfair hardship if it finds that a spouse's resources, property, and portion of marital property are "so inadequate as to work an unfair hardship"). But the district court did not make any findings about unfair hardship. Accordingly, we reverse and remand for the district court

⁴ The parties refer to the four properties as 66346 190th Street, AG 60 deed acres, AG 34 deed acres, and AG 80 deed acres.

to determine whether including the value of this nonmarital property is warranted to prevent wife from suffering an unfair hardship.

Allocation of Property

We finally turn to the district court's distribution of the marital estate. When evaluating and dividing property in a marital dissolution, the district court is provided broad discretion and will not be overturned except for an abuse of that discretion. *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). We affirm the district court's division of property if it had an acceptable basis in fact and principle even though we may have taken a different approach. *Servin v. Servin*, 345 N.W.2d 754, 758 (Minn. 1984). And we defer to the district court's findings of fact and will not set them aside unless clearly erroneous. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001). Husband challenges the distribution of the marital estate in three ways: the failure to include debts in the equalization of the marital estate, the allocation of a \$150,000 check to him, and the valuation of certain properties. We address each argument in turn.

Debts not Included in Equalization of Marital Estate

Husband argues that the district court failed to consider marital debts in its equalization of the division of the marital estate. District courts apportion marital debts as part of the property division and debts are to be treated in the same manner as marital assets. *Korf v. Korf*, 553 N.W.2d 706, 712 (Minn. App. 1996).

Here, husband specifically contends that the unsecured loans from his mother, totaling \$238,500, were marital property and, accordingly, should be considered in the equalization of the marital estate. But the only evidence presented to the court regarding

the loans was husband's testimony and handwritten documents between husband and his mother. Because the district court has broad discretion in the division of debt, and because the record does not demonstrate that these loans were incurred by both parties, we conclude that the district court did not abuse its discretion when it allocated the obligation for the unsecured loans from husband's mother to husband.

\$150,000 Check from 2013

Husband argues that the district court abused its discretion by allocating to him a \$150,000 check that was written by husband to himself in 2013. Husband testified that the check was used to make payments on a piece of marital property known as Julio's Bar and Grill. But he presented no evidence supporting his assertion that the money was used for Julio's. As such, the district court did not abuse its discretion in allocating the \$150,000 check to husband.

Valuation of Properties

Husband contests the district court's valuation of the 175 North Broadway property, Julio's and its agreed-upon debt, and the rental value of 80 acres for 2014-2016. A district court's valuation of an item of property is a finding of fact which we do not set aside unless it is clearly erroneous on the record as a whole. *Maurer*, 623 N.W.2d at 606. And it is only necessary that the district court's valuation be "within a reasonable range of figures," not an exact valuation. *Johnson v. Johnson*, 277 N.W.2d 208, 211 (Minn. 1979).

The district court adopted a valuation of the 175 North Broadway property based on the property's tax-assessed value included on the appraisal documentation. Because this valuation is based in fact, it was not clearly erroneous. *See Castonguay v. Castonguay*,

306 N.W.2d 143, 147 (Minn. 1981) (stating that if a valuation has an acceptable basis in fact, this court must affirm the district court).

Similarly, the parties stipulated that Julio's would be sold for \$175,000, with the proceeds used to pay off certain debts. But because the sale did not occur, the district court used the appraisal value of Julio's—\$145,000—as the valuation amount and awarded Julio's to wife. Again, because the district court's valuation is based in fact, the district court's reliance on the appraisal valuation was not clearly erroneous and awarding Julio's to wife was not an abuse of discretion.⁵ *Id.*

But we agree with husband that the district court erroneously determined that the rental value of the 80 acres from 2014-2016 was \$45,225. The district court's order indicates that this valuation is based on "argument," and it did not point to any evidence in the record to substantiate this valuation. Because we do not discern a basis in fact present in the record for the \$45,225 valuation, we reverse and remand on the question of valuation and allocation of the rental value of the 80 acres from 2014-2016. *Id.*

In sum, we observe that this case presented the district court with a lengthy dissolution proceeding and a sizable estate. Because husband failed to comply with discovery orders throughout the proceeding, the district court acted within its discretion by sanctioning husband. And the district court correctly classified, valued, and distributed the large majority of the marital estate. But the district court erred by determining that the four

⁵ To the extent that husband challenges the valuation and allocation of certain third-party properties, which is less than clear, we also conclude that the district court acted within its discretion in relying on appraisals and testimony when valuing and distributing those properties.

inherited properties and the inherited farm equipment were marital property and by including them in the equalization of the marital estate value without finding any unfair hardship. The district court also erroneously determined the rental value of the 80 acres because the valuation is not based on facts in the record. Accordingly, we reverse and remand.⁶

Affirmed in part, reversed in part, and remanded.

⁶ We leave to the district court's discretion whether to reopen the record. And we note that the district court did not award wife spousal maintenance based on a finding that "an equitable division of all assets shall allow sufficient assets to each party to support themselves at the present time." Any changes in property distribution on remand may result in the need to reevaluate the issue of spousal maintenance, although we express no opinion on this issue.