An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA05-964

NORTH CAROLINA COURT OF APPEALS

Filed: 6 June 2006

STANLEY M. CLOUGH,
Plaintiff,

v.

Dare County
No. 01 CVD 637

CAROL A. HUNSECKER,
Defendant.

Appeal by defendant from order entered 4 December 2004 by Judge Amber Davis in Dare County District Court. Heard in the Court of Appeals 15 March 2006.

Sharpe, Michael, Outten & Graham L.L.P., by Jeanine C. Evans, for plaintiff-appellee.

Frank P. Hiner, IV, for defendant-appellant.

LEVINSON, Judge.

Stanley Clough (husband) and Carol Hunsecker (wife) were married on 8 May 1993. The parties separated on or about 1 October 2001 and subsequently divorced on 16 December 2002. Two children were born of the marriage. The present appeal arises from an order on equitable distribution.

On appeal, wife contends that the trial court committed reversible error in failing to identify the marital and divisible property along with their corresponding net values. We agree.

In order to enter a proper equitable distribution order, the trial court must identify and classify all property involved as separate, marital or divisible; determine the net market value of the marital and divisible property as of the date of separation; determine what division of the marital and divisible property is equitable; and distribute the property accordingly. Suzanne Reynolds, *Lee's North Carolina Family Law* § 12.142 (5th ed. revised, 2002).

Additionally, in performing these tasks, the trial court must be specific and detailed enough to enable a reviewing court to determine what was done and to evaluate its correctness. *Wade v. Wade*, 72 N.C. App. 372, 376, 325 S.E.2d 260, 266 (1985). Hence, N.C. Gen. Stat. § 1A-1, Rule 52(a) (2005), requires that "the trial court's findings of fact . . . be more than mere evidentiary facts; they must be the 'specific ultimate facts . . . sufficient for [an] appellate court to determine that the judgment is adequately supported by competent evidence.'" *Williamson v. Williamson*, 140 N.C. App. 362, 363-64, 536 S.E.2d 337, 338 (2000) (quoting *Montgomery v. Montgomery*, 32 N.C. App. 154, 156-57, 231 S.E.2d 26, 28 (1977)). Our Supreme Court has stated:

> Evidence must support findings; findings must support conclusions; conclusions must support the judgment. Each step of the progression must be taken by the trial judge, in logical sequence; each link in the chain of reasoning must appear in the order itself. Where there is a gap, it cannot be determined on appeal whether the trial court correctly exercised its function to find the facts and apply the law thereto.

Coble v. Coble, 300 N.C. 708, 714, 268 S.E.2d 185, 190 (1980).

In the instant case, many of the trial court's findings of fact and conclusions of law are either too ambiguous or incomplete to allow meaningful appellate review. Specifically, the order does not identify and classify all of the marital, separate and divisible property and debt. *See Hunt v. Hunt*, 112 N.C. App. 722, 436 S.E.2d 856 (1993) (classification is a legal conclusion that must be supported by findings of fact). In addition, the order does not contain findings sufficient to allow us to ascertain the net value of the marital estate. *See Glaspy v. Glaspy*, 143 N.C. App. 435, 440, 545 S.E.2d 782, 786 (2001) ("Without a full determination of the net value as of the date of separation of distributed items, the trial court cannot be said to have divided the property equitably."). On remand, the trial court should enter a new order that clearly identifies and values all of the marital and divisible property and debt of the parties.

We note the following examples of insufficient findings and conclusions. First, the order indicates that the marital residence was the separate property of wife because she acquired that property before the marriage. The trial court also determined that wife and husband should each receive one-half of the value of the active appreciation of the marital home. However, the order does not contain findings as to the net value of the residence on the date of marriage or the net value of the residence on the date of separation. While active appreciation of separate property during the marriage is properly classified as marital property, *see Ciobanu v. Ciobanu*, 104 N.C. App. 461, 409 S.E.2d 749 (1991), there

must be findings sufficient to show that separate property has appreciated in value during the marriage before a trial court can conclude that such appreciation was the result of marital effort.

Second, the order distributes certain items of personal property, several bank accounts, and numerous rental properties without finding these items to be marital or divisible property. With regard to the personal property and bank accounts, the trial court found only that each item was deemed to be "the sole and separate property" of either the husband or the wife. The only findings pertaining to the rental properties set out values of these properties "for distributional purposes." Distribution of property is the third step in a three-step process. A trial court must "first ascertain what is marital [and divisible] property, then to find the net value of that property, and finally to make a distribution based upon the equitable goals of the statute and the various factors specified therein." *Lawrence v. Lawrence*, 75 N.C. App. 592, 594, 331 S.E.2d 186, 187 (1985).

Third, the order states that the trial court intends to order an unequal distribution. However, the only indication in the order of the extent of the unequal division is the directive that wife pay to husband one-half of the costs associated with improvements made to the marital residence during the marriage less $5,876.07 "to effectuate an unequal distribution." Frankly, because the value of the net marital estate cannot be gleaned from the order, one cannot determine what the trial court is doing with respect to distribution at all.

In light of the foregoing, we reverse and remand for entry of a new order on equitable distribution, leaving it within the discretion of the trial court whether to take additional evidence.

Reversed and remanded.

Judges McCULLOUGH and TYSON concur.

Report per Rule 30(e).