

IN THE UTAH COURT OF APPEALS

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Kristine Andress Jaspering,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner and Appellee,	)	
	)	Case No. 20070072-CA
v.	)	
	)	F I L E D
Glenn Jaspering,	)	(May 30, 2008)
	)	
Respondent and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2008 UT App 193</span>

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Fourth District, Provo Department, 044400522  
The Honorable James R. Taylor

Attorneys: Jared L. Bramwell and Steven M. Kelly, Draper, for  
Appellant  
Kellie F. Williams and Jared T. Hales, Salt Lake  
City, for Appellee

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Before Judges Greenwood, Billings, and Orme.

ORME, Judge:

We have determined that "[t]he facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument." Utah R. App. P. 29(a)(3). Moreover, the issues presented are readily resolved under existing law.

"A trial court has considerable discretion concerning property [division] in a divorce proceeding, thus its actions enjoy a presumption of validity.'" Elman v. Elman, 2002 UT App 83, ¶ 17, 45 P.3d 176 (alteration in original) (citation omitted). "We disturb a trial court's property division . . . only when there is a misunderstanding or misapplication of the law resulting in substantial and prejudicial error, the evidence clearly preponderates against the findings, or such a serious inequity has resulted as to manifest a clear abuse of discretion." Id. (citation and internal quotation marks omitted). We see no error in the classification of the 678 and 466 North properties as Appellee's separate property, given the detailed findings made by the trial court.

Nor do we see error in the trial court's finding that the difference between the market value and the sale price of the sixplex was not a gift from Appellant's mother to Appellant only. "We will overturn the trial court's findings of fact only if they are 'against the clear weight of the evidence, or if [we] otherwise reach[] a definite and firm conviction that a mistake has been made.'" Cooke v. Cooke, 2001 UT App 110, ¶ 7, 22 P.3d 1249 (alterations in original) (citation omitted). Further, it is the trial court's prerogative to "'assess the credibility of witnesses, and we will not second guess the trial court where there is a reasonable basis to support its findings.'" Id. ¶ 11 (citation omitted). In assessing the evidence, the trial court found that the note from Appellant's mother was entitled to little weight, given its ambiguity, and Appellee's inability to cross-examine Appellant's mother. We see no clear error in this determination.

The same may be said with regard to the trial court's distribution of the automobiles. Appellant's challenge ultimately turns on the validity of the trial court's finding that Appellant's mother gave Appellee the Sequoia. The parties' testimony diverged completely on this issue, and the trial court had the discretion to credit the testimony of Appellee over that of Appellant.

Affirmed.

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Gregory K. Orme, Judge

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WE CONCUR:

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Pamela T. Greenwood,  
Presiding Judge

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Judith M. Billings, Judge