

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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TERRY CHARLES CRESSEY,  
  
Plaintiff–Appellant,

UNPUBLISHED  
June 25, 1996

v

No. 179316  
LC No. 92-52552-DM

SUSAN LAVERNE CRESSEY,  
  
Defendant–Appellee.

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Before: Wahls, P.J., and Young and Beach,\* JJ.

PER CURIAM.

Plaintiff appeals as of right from a judgment of divorce, challenging the distribution of marital property. We affirm in part and remand in part.

As part of the judgment, the trial court awarded defendant a cottage that she had inherited from her father during the parties' marriage. This award included a \$155,000 increase in the value of the property that accrued during the parties' marriage, due in part to the acquisition of an adjacent lot.

Plaintiff first contends that the trial court clearly erred in awarding the increase in value of the cottage property to defendant. Plaintiff argues that much of the increased value was attributable to labor and money that he contributed to the property and that the trial court therefore should have awarded him a portion of that increase. The trial court rejected this argument, finding that plaintiff's use and enjoyment of the property sufficiently compensated him for any improvements he made or money he spent on the cottage property.

This Court first reviews the trial court's findings of fact under the clearly erroneous standard. If the findings of fact are upheld, we must decide whether the dispositive ruling was fair and equitable in light of those facts. The ruling should be affirmed unless this Court is left with the firm conviction that the division was inequitable. *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992). The trial court may award one spouse all or part of property inherited by the other spouse as part of the divorce decree if that spouse has contributed to its acquisition, improvement, or accumulation. MCL

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\* Circuit judge, sitting on the Court of Appeals by assignment.

552.401; MSA 25.136; *Lee v Lee*, 191 Mich App 73, 78-79; 477 NW2d 429 (1991). Upon reviewing the record, we conclude that the trial court's finding that plaintiff's contribution to the property was consistent with his use and enjoyment of the property was not clearly erroneous. During the marriage, plaintiff helped with the upkeep of the property by doing some painting and minor improvements. In its findings, the court clearly sets out how defendant paid for the maintenance and major improvements on the property with assets that she inherited. Plaintiff, on the other hand, was not able to provide proof that he made substantial contributions to the property even though the records were made available to him. Based on these facts, we conclude that the trial court's award was fair and equitable.

Plaintiff next asks this Court to determine which of the parties should be required to pay the taxes and mortgage on the marital estate that became overdue during the pendency of the divorce. We decline to address this issue because the trial court did not resolve it. *Schubiner v New England Ins Co*, 207 Mich App 330, 331; 523 NW2d 635 (1994). According to the judgment of divorce, this issue was held in abeyance. Therefore, we remand this question for the trial court to resolve.

Affirmed in part and remanded in part consistent with this opinion. We do not retain jurisdiction.

/s/ Myron H. Wahls

/s/ Robert P. Young, Jr.

/s/ Harry A. Beach