

STATE OF MICHIGAN  
COURT OF APPEALS

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MICHELLE STERLING,

Plaintiff-Appellee,

v

JIMMY STERLING,

Defendant-Appellant.

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UNPUBLISHED

August 30, 1996

No. 184449

LC No. 94-016017-DO

Before: Neff, P.J., and Fitzgerald and C. A. Nelson,\* JJ.

PER CURIAM.

Defendant appeals as of right from the circuit court's order distributing the parties property in this divorce matter. Specifically, defendant claims the trial court improperly granted to plaintiff the parties' house and furnishings, the only major marital assets. We affirm.

I

In deciding a divorce action, the circuit court makes findings of fact and dispositional rulings. See *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993). The factual findings are upheld by this Court unless clearly erroneous, while the dispositional ruling must be affirmed unless we are left with the definite and firm conviction that it was inequitable. *Id.*

The division of property in a divorce action is not governed by set rules, and the trial court is afforded broad discretion in fashioning its rulings. *Id.* The division of property itself must be equitable. *Id.* at 35. The following factors should be considered in resolving a property dispute:

(1) duration of the marriage, (2) contributions of the parties to the marital estate, (3) age of the parties, (4) health of the parties, (5) life status of the parties, (6) necessities and circumstances of the parties, (7) earning abilities of the parties, (8) past relations and conduct of the parties, and (9) general principles of equity. [*Id.*]

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

Depending on the case before the court, not all of these factors will apply, and additional considerations may need to be taken into account. *Id.* at 35-36.

## II

### A

Here, the trial court issued a written opinion with regard to the split of the property. In so doing, the court incorporated the parties' stipulations of fact, which included the following facts: (1) the parties' marriage lasted approximately five years, (2) both of the parties were relatively young, and (3) most, if not all, of the parties' property was derived directly from a \$104,472.52 settlement the parties received as part of a medical malpractice suit initiated as a result of a botched surgery performed on plaintiff, which left her physically scarred and infertile. The stipulation also noted that defendant was abusive to plaintiff to the extent that the local police were involved and that plaintiff obtained a "bodily harm" injunction against defendant.

The trial court determined that the house and household items would be awarded to plaintiff because she was the one who suffered the compensable injuries, and the items awarded to her could be directly traced to the settlement obtained as a result of those injuries.

### B

On our review of the record, we conclude that the trial court did not err in making its findings of fact. Indeed, the majority of the facts relied on by the judge were stipulated to by the parties.

We also do not conclude that the distribution of the property was inequitable. Defendant argues that the trial court erred in granting plaintiff the house and the household furnishings because the house was purchased in the names of both parties, and the lawsuit was initiated in the names of both parties. We find defendant's argument unpersuasive.

The relevant factors, the support for which is found in the parties' stipulation as well as the trial court's opinion, were appropriately set forth and are as follows: the marriage was of short duration, both parties appeared able to earn a commensurate living, the injury giving rise to the settlement proceeds was borne almost solely by plaintiff, defendant was abusive toward plaintiff, and it did not appear that defendant contributed much, if anything, to the marital estate. Under these circumstances, we are not left with the definite and firm conviction that the distribution of property was inequitable in this case.

Affirmed.

/s/ Janet T. Neff

/s/ E. Thomas Fitzgerald

/s/ Charles A. Nelson