

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

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KATHY M. JUSTICE,

Plaintiff-Appellee,

v

DARYL D. JUSTICE,

Defendant-Appellant.

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UNPUBLISHED

October 4, 1996

No. 176410

LC No. 93-324410-DM

Before: Young, P.J., and Holbrook, Jr., and J. Richard Ernst,\* JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of divorce entered by the Wayne Circuit Court which disposed of marital property, awarded alimony to plaintiff, and ordered defendant to pay one-half of plaintiff's expert witness fees. We affirm.

In deciding a divorce action, the circuit court must make findings of fact and dispositional rulings. On appeal, the factual findings are to be upheld unless they are clearly erroneous. *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993); *Sparks v Sparks*, 440 Mich 141, 152; 485 NW2d 893 (1992). A dispositional ruling, however, should be affirmed unless this Court is left with the firm conviction that it was inequitable. *Id.* We recognize that in making findings of fact the trial court is in a superior position to evaluate the credibility of the witnesses who appear before it. MCR 2.613(C); *Sparks, supra* at 147.

At the heart of defendant's claim that the trial court's dispositional rulings were inequitable is his reliance on facts that are belied by the record, such as the amount of his annual net income from his plumbing business, the valuations of the parties' real estate assets, plaintiff's alleged lack of contribution toward the marital estate, and the apportionment of fault between the parties for the breakdown of the marriage. The trial court had rejected defendant's claim that he only earned between \$13,500 and \$15,000 in 1993, given that he had testified that the gross revenues from his business that year amounted to \$325,000, and plaintiff's expert testified that the gross deposits to defendant's business checking account for that year amounted to \$235,000. The court stated that defendant had "the

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

capability of making far in excess of what's been represented" at trial. The court also adopted plaintiff's expert's appraisal of the marital properties because the expert used accepted valuation methods and defendant offered no credible evidence to refute the valuations.<sup>1</sup> Contrary to defendant's assertion, the evidence established that plaintiff contributed to the marital estate by maintaining the parties' home, raising the parties' son, and working part-time at the plumbing business. See *Hanaway v Hanaway*, 208 Mich App 278, 293-294; 527 NW2d 792 (1995). Finally, the court found both parties at fault for the breakdown of the marriage, but found it "much more heavy on [defendant's] side than [plaintiff's]." Having reviewed the record, we find that plausible evidence was presented to support the court's findings of fact, and we are unable to say that the court committed clear error. *Beason v Beason*, 435 Mich 791, 804-805; 460 NW2d 207 (1989).

We further conclude that the trial court's dispositional rulings regarding property division, alimony, and expert witness fees were just and appropriate. The trial court is given broad discretion in fashioning its rulings and there can be no strict mathematical formulations. The division of property need not be equal, but it must be equitable. Here, in making its dispositional rulings, the court applied the correct legal standards, considered the appropriate factors, and exercised its discretion fairly. *Sparks, supra* at 151-152. Accordingly we will not disturb those rulings.

Affirmed. Plaintiff may tax costs, including a reasonable attorney fee, in defending against this appeal.

/s/ Robert P. Young

/s/ Donald E. Holbrook, Jr.

/s/ J. Richard Ernst

<sup>1</sup> We note that, in defendant's trial brief (filed in the lower court on May 2, 1994), defendant accepted the expert's valuations of the King, Hanover, Eureka, and Glenee properties, without dispute. Defendant only disputed the \$68,000 valuation of his plumbing business.