STATE OF MICHIGAN

COURT OF APPEALS

HARVEY L.QUINCE

Plaintiff-Appellee,

v

GLADYS QUINCE,

Defendant-Appellant.

UNPUBLISHED
November 19, 1996

No. 173677
LC No. 93-310155

Before: Saad, P.J., and Holbrook and G.S. Buth,* JJ.

PER CURIAM.

In this appeal from a judgment of divorce, defendant asserts that the circuit court erred in its division of the marital estate. We affirm.

In reviewing a dispositional ruling in a divorce case, we review the trial court's findings of fact, for clear error, and then decide whether the dispositional ruling was fair and equitable in light of the facts. Property dispositional rulings will be affirmed unless the court is left with a firm conviction that the distribution was inequitable.

I

Defendant contends that the division of the marital property was inequitable, because she received only a $5,000 lien in plaintiff's home. A division of property in a divorce decree need not be equal, however, it must be equitable. *Jansen v Jansen,* 205 Mich App 169, 171; 517 NW2d 275 (1994). Here, the circuit court viewed the past relations and conduct of the parties, the length of the marriage, the needs of the individual parties, as well as the contributions of each of the parties to the marriage. Although both parties denied the contributions of the other, the court recognized that, even by defendant's own testimony, her claim of contributions did not increase the value of the home on Marlowe Street. Indeed, substantial debt was added to the property during the term of the marriage.

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

Given the volatile nature of the marriage, the financial status of the parties, the age of the parties, and the testimony of the parties, the court issued an opinion that was fair and equitable.

II

Defendant next contends that the court erred in refusing to permit her expert to testify as to the fair market value of the marital home. We disagree. The trial court specifically asked if the appraiser could value the home at the time of the marriage in 1986 – the answer was no. Although defendant wanted to show an increase in value of the home due to her contributions, an increase in value could not be determined without knowledge of the value of the home at some earlier time. The court did not err in refusing to admit testimony of the value of the home only at the time of the dissolution.

III

Finally, defendant argues that this matter should be reversed and remanded for an evidentiary hearing in light of what defendant labels "obvious ambiguities and contradictions" in the property settlement section of the divorce judgment. The primary source of the problem is a perceived conflict between the provision awarding the appliances and furniture to plaintiff, and the provision which permits each part to keep any property they had prior to the marriage. In particular, does defendant get to keep furniture (located in plaintiff's house on the date of divorce) that she brought into the marriage? In light of the circuit court's comments at the motion hearing on this issue, the answer is no. The following occurred at the hearing:

> EACH PARTY WILL RETAIN ALL PROPERTY ACQUIRED BY THEM PRIOR TO THIS MARRIAGE.
>
> MR. WEINER: That was just simply non-covered items.
>
> THE COURT: If she construed that to mean she could take furniture or appliances out of the house, she's wrong.
>
> MR PEARSON: Even though all of the furniture she took out of the house were things that she owned well prior to this marriage?
>
> THE COURT: That's correct.
>
> MR PEARSON: He's got the house and she's to give up everything in the house, including things that she acquired prior to the marriage.
>
> THE COURT: That was my decision at the trial.

Thus, the circuit court unambiguously set forth its view on this issue and, on the facts of this case, we see no error therein.

At the hearing, it was also suggested that the remaining payments owed by plaintiff to defendant on the lien upon plaintiff's home, be offset for the value of the items taken by defendant in reliance upon her misinterpretation of the judgment. This proposal is obviously a rough estimation, but it is nonetheless one which we urge the parties to seriously consider before proceeding further with this matter, expending more attorneys fees, and risking the possibility of having to pay opposing counsel's fees.

Although the trial court indicated its willingness to hold an evidentiary hearing if necessary, defendant does not have an absolute right to an evidentiary hearing at this time. We therefore decline to remand for a hearing, and urge the parties to resolve their differences along the lines of the trial judge's comments at the motion hearing. However, if the parties are unable to do so, nothing in this decision should be interpreted to preclude an evidentiary hearing, should the trial court find that this is necessary.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ George S. Buth