

STATE OF MICHIGAN
COURT OF APPEALS

AURELIA LUCY TAYLOR,

Plaintiff-Appellee,

v

CASSIDY STANLEY TAYLOR,

Defendant-Appellant.

UNPUBLISHED

November 26, 1996

No. 189508

LC No. 94-476923-DO

Before: Hoekstra, P.J., and Sawyer and T.P. Pickard,* JJ.

PER CURIAM.

Defendant appeals as of right from the judgment of divorce entered by the trial court, challenging the disposition of property. We remand for further proceedings consistent with this opinion.

Plaintiff filed this divorce action against defendant after forty-nine years of marriage. The parties stipulated at trial as to the nature and value of the marital property. At the bench trial, the court heard testimony from both parties regarding their marital relationship and their desires with respect to the property settlement. The trial court fashioned a property settlement in this case in which plaintiff essentially received the marital home, which had a value of \$100,000, and a monthly income of \$1,380, whereas defendant received the money in a bank account, \$29,000, and a monthly income of \$584. This distribution of the marital estate left plaintiff with approximately 78% of the property and 70% of the monthly income.

Defendant's essential argument is that the trial court made an inequitable distribution of the marital assets. Defendant contends that this inequity could have been avoided if the court had properly considered all of the relevant factors instead of focusing on the perceived fault of defendant in causing the divorce.

The trial court is given broad discretion in making the disposition of the marital estate during a divorce. *McDougal v McDougal*, 451 Mich 80, 88; 545 NW2d 357 (1996). Although there is no requirement that the division of property be equal, it must be equitable. *Id.* There are several factors

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

that the trial court must consider to reach a fair and equitable division whenever they are relevant to the circumstances in a particular case.

(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. [*McDougal, supra* at 89 quoting *Sparks v Sparks*, 440 Mich 141, 158-160; 485 NW2d 893 (1992).]

It is permissible for a court to consider the “fault” of one party in causing the divorce when making the division of the marital property. *Sparks, supra* at 158. However, the trial court must not place disproportionate emphasis on fault or any other factor, instead all of the relevant factors must be weighed. *Id.*

After reviewing the court’s decision and the evidence, we are not persuaded that the property division was equitable. While the division need not be equal, the disproportionate division in the case at bar is not supported by the evidence. On remand, the trial court shall reconsider the property division under the *Sparks* factors and fashion an equitable division of the property.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction. Defendant may tax costs.

/s/ Joel P. Hoekstra
/s/ David H. Sawyer
/s/ Timothy P. Pickard