

STATE OF MICHIGAN
COURT OF APPEALS

REBECCA JANE WINGEIER,

Plaintiff-Appellee,

UNPUBLISHED
January 21, 1997

No. 190298

v

LARRY DALE WINGEIER,

Kent Circuit Court
LC No. 93-077485

Defendant-Appellant.

Before: Neff, P.J., and Smolenski and D. A. Roberson,* JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of divorce, challenging the valuation and disposition of specific property. We affirm.

I

Defendant first contends that the trial court erred in determining that defendant's fifty percent interest in the dairy farm was worth \$200,000. We review a trial court's findings of fact in a divorce case for clear error. *Sparks v Sparks*, 440 Mich 141, 151; 485 NW2d 893 (1992). A finding of fact is clearly erroneous if, after a review of the entire record, we are left with the definite and firm conviction that a mistake has been made. *Wellman v Wellman*, 203 Mich App 277, 278; 512 NW2d 68 (1994).

Our careful review of the evidence indicates that the trial court's finding as to the value of the dairy farm was reasonable. Based on his review of various documents supplied by plaintiff, defendant and defendant's attorney, plaintiff's financial expert, Daniel DeHoek, valued the dairy farm at \$478,000 under the balance sheet method of accounting. Defendant's financial expert, Daniel Boge, arrived at a negative \$100,000 value for the farm, under methods he conceded were not entirely in accordance with generally accepted accounting principles.

DeHoek testified that many of the expenses included in Boge's report were for defendant's and his brother's debts and not those of the farming operation. DeHoek further testified that although

* Recorder's Court judge, sitting on the Court of Appeals by assignment.

several barns and silos worth \$122,000 were not located on the dairy farm, he included them as assets in his valuation report because the barns and silos appeared on the farm's own depreciation expense report. Boge admitted that several thousand dollars in expenses should not have been included in his valuation report and that he was not aware of any of the farm's financial transactions made prior to 1994.

Additionally, there was testimony from defendant that although 1994 was a bad year for the farm operation, he received a salary of between \$58,000 and \$60,000 from the farm's account that same year. Defendant also testified that the partnership paid for both his auto and life insurance and a \$741 monthly mortgage on the parties' marital home.

Presented with differing appraisals of the dairy farm, its assets, and its resultant income to the partnership, the trial court determined that Boge's valuation was inappropriate. Because we are not left with a definite and firm conviction that the trial court made a mistake in valuing defendant's share of the farm operation, we affirm the court's determination.

II

Defendant next argues that the trial court did not have jurisdiction over the property referred to as PA 116 because defendant's brother, a third party, owned the property and defendant had no ownership interest in it. Therefore, defendant insists, it was improper for the trial court to have found that plaintiff was entitled to one half of whatever benefits she could prove defendant received from the future sale of that property. We disagree.

As defendant correctly notes, a court generally only has authority to "make property divisions which affect the rights of the parties before it." *Donahue v Donahue*, 134 Mich App 696, 704-705; 352 NW2d 705 (1984). Here, however, we disagree with defendant's assertion that the trial court's order affects the rights of anyone other than plaintiff and defendant. To the contrary, plaintiff will not be entitled to any profits from the sale of the PA 166 property unless she can prove that defendant receives any proceeds from its sale. In such a case, only defendant's benefits will be affected.

Notwithstanding this, however, we note that ample evidence was presented at trial to suggest that defendant and his brother may have conspired to deprive plaintiff of her equitable share in the proceeds from the sale of the PA 116 property. In such a case, a trial court's property division may properly affect the rights of nonparties. *Id*

We conclude that the trial court had the authority to rule on the disposition of any benefits defendant might receive in the future from the sale of the PA 116 property. We further find that the trial court properly ordered that plaintiff was entitled to one half of defendant's benefits from the sale, provided she could prove that defendant received any proceeds.

Affirmed.

/s/ Janet T. Neff
/s/ Michael R. Smolenski
/s/ Dalton A. Roberson