

STATE OF MICHIGAN
COURT OF APPEALS

SHIRLEY GENSON,

Plaintiff-Appellee,

v

H. WILLIAM GENSON,

Defendant-Appellant.

UNPUBLISHED

March 14, 1997

No. 186863

Montcalm Circuit Court

LC No. 9400N343-DO

Before: Bandstra, P.J., and Hoekstra and S.F. Cox,* JJ.

PER CURIAM.

Defendant appeals as of right the judgment of divorce dissolving the marriage between himself and plaintiff. He challenges the trial court's valuation of his interest in Keldon Company, the distribution of marital assets, and the award of alimony to plaintiff. We affirm, but remand.

Defendant first argues that the trial court should have deducted the sum of \$46,000 in accrued liabilities from the \$195,000 value it adopted as defendant's interest in Keldon Company. At trial, three witnesses gave three different estimates of the value of Keldon Company: plaintiff's accountant valued the business at \$435,000; defendant's accountant valued the business at \$297,000; and Donald Hassberger, the current bookkeeper of the company, valued the business at \$325,000 to \$355,000. Based on Hassberger's testimony, and in light of the conflicting expert testimony as to the value of the company, the trial court determined that an equitable amount for defendant's fifty-five percent interest in the company was \$195,000. Defendant claims that Hassberger's estimate incorrectly added an accrued liability of \$46,000 although he admitted that he was to receive half that amount as a bonus.

The valuation of stock in a closely held corporation is a difficult task, and the trial court is not required to accept either party's valuation evidence. *Pelton v Pelton*, 167 Mich App 22, 25; 421 NW2d 560 (1988). The court's \$195,000 estimate results from an approximate split of the difference between the two expert's estimates. In light of the difficulty and great latitude afforded trial courts in estimating the value of a closely held company, we find the trial court's appraisal of defendant's share in Keldon Company reasonable. *Id.* at 26.

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

Defendant next argues that the trial court incorrectly stated in its opinion that plaintiff's sixty percent share of defendant's estimated \$195,000 interest in Keldon Company was \$117,250, rather than \$117,000, and that the court also failed to account for the fact that defendant had already paid plaintiff \$1,924 from the sale of stock. Plaintiff agrees that sixty percent of defendant's estimated \$195,000 interest in Keldon Company is actually \$117,000. However, because this mistake was corrected in the judgment of divorce, there is no need to amend the trial court's judgment. Plaintiff also concedes that defendant paid her the \$1,924 and that this should be deducted from plaintiff's award. Therefore, the final judgment must be amended to correct this error.

Defendant also argues that the trial court's award of sixty percent of defendant's interest in Keldon Company and its award of one-hundred percent interest in the marital home to plaintiff was neither fair nor equitable. Absent an agreement, the goal in distributing marital assets is to reach an equitable distribution of property in light of the circumstances. *Ackerman v Ackerman*, 163 Mich App 796, 807; 414 NW2d 919 (1987). The trial court made specific findings regarding the length of the marriage, plaintiff's age, plaintiff's ability to secure employment, and plaintiff's medical needs pertaining to her contraction of the life long disease of herpes. Moreover, the trial court noted defendant's admissions to being a sexual addict and an alcoholic, to performing sexual acts with prostitutes during the early part of the marriage, to patrolling areas known for prostitution even after he allegedly gained control over his sexual problem, to having had venereal warts removed from his body, and to having physically abused plaintiff. Fault is a relevant factor in determining property settlements. *Sparks v Sparks*, 440 Mich 141, 158; 485 NW2d 893 (1992). After a review of the record, we conclude that the trial court's findings of fact were not clearly erroneous and that the trial court fairly and equitably distributed the marital assets in this case. *Hanaway v Hanaway*, 208 Mich App 278, 292; 527 NW2d 792 (1995).

Finally, defendant argues that the trial court's award of alimony of \$2,000 per month for four years was not fair and equitable in light of its distribution of the marital assets. We review the trial court's ruling regarding alimony to determine whether the factual findings are clearly erroneous and whether the ruling was fair and equitable. *Ianitelli v Ianitelli*, 199 Mich App 641, 642; 502 NW2d 691 (1993). We will affirm the trial court's alimony decision unless we are left with the firm conviction that the ruling was inequitable. *Id.* Many of the factors used to determine whether a marital property distribution is fair and equitable overlap the factors this Court considers in determining whether alimony was appropriate. *Hanaway*, *supra* at 295. The trial court found that defendant made \$94,000 in 1994. The court made other findings, including findings as to plaintiff's medical needs, her lack of ability to secure a high paying job, and the costs involved with maintaining her home. Upon review of the record, we conclude that the court's factual findings were not clearly erroneous, and we are not left with the firm conviction that the trial court's decision was inequitable.

We affirm, but remand so that the judgment of divorce may be modified, pursuant to the parties' agreement that plaintiff has received \$1,924 from the sale of Keldon Company stock. We do not retain jurisdiction.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Sean F. Cox