

STATE OF MICHIGAN
COURT OF APPEALS

MILES H. HOUSE,

Plaintiff-Appellant/Cross-Appellee,

v

SHIRLEY A. HOUSE,

Defendant-Appellee/Cross-Appellant.

UNPUBLISHED

April 1, 1997

No. 184870

Clare Circuit Court

LC No. 90-900064-DO

Before: O'Connell, P.J., and Smolenski and T.G. Power,* JJ.

PER CURIAM.

Plaintiff appeals by right and defendant cross-appeals by right from the trial court's order modifying the parties' judgment of divorce after remand from this Court. *House v House*, unpublished opinion per curiam of the Court of Appeals, decided October 27, 1993 (Docket No. 145035). Several aspects of the property division, as well as the judgment's alimony provision were at issue.

Plaintiff argues that the trial court erred in failing to reconsider the entire property division on remand. In our earlier opinion, *House, supra*, this Court concluded that certain real property located in Clare County, which was purchased with plaintiff's inheritance, should have been included in the marital estate. In light of this holding, it is necessary to review the division of all the parties' property and, considering the appropriate factors, determine an equitable distribution. *McDougal v McDougal*, 451 Mich 80, 89; 545 NW2d 357 (1996); *Ackerman v Ackerman*, 163 Mich App 796, 807; 414 NW2d 919 (1987). Treating the Clare County property as part of the marital estate altered several relevant factors including plaintiff's level of contribution to building the marital estate, his current economic status and his economic needs. The trial court should consider these factors and arrive at a new property division that provides an equitable distribution in light of this Court's earlier opinion.¹ Accordingly, we remand for a redetermination of the division of the parties' property. However, we reject plaintiff's position that the proofs should be reopened. The trial court has the information it needs to make this determination within the existing record.

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

Plaintiff also argues that this Court should address his spousal support obligation. We will not review this issue at this time because plaintiff currently has a motion on this issue pending before the trial court. Thus, appellate review would be premature. MCR 7.203(A).

Defendant argues in her cross-appeal that she should have been awarded \$6,154.32 as her portion of plaintiff's accumulated leave time. On remand, the trial court determined that defendant had presented insufficient evidence to find the existence, much less the value, of this asset. This finding is adequate to comply with our earlier remand order that the court make specific findings regarding this property. Based on our review of the record, this finding was not clearly erroneous because there was no evidence that plaintiff was entitled to his accumulated leave as a pay out. *Beason v Beason*, 435 Mich 791, 805; 460 NW2d 207 (1990). Accordingly, we conclude that the trial court's ruling that awarded plaintiff "any vacation, sick or other leave time" was fair and equitable in light of these circumstances. *McMichael v McMichael*, 217 Mich App 723, 729; 552 NW2d 688 (1996).

Remanded for further proceedings consistent with this opinion. We do not retain jurisdiction. No taxable costs pursuant to MCR 7.219, neither party having prevailed in full.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Thomas G. Power

¹ We acknowledge, as indicated by the trial court, that our prior opinion was capable of two different interpretations.