

STATE OF MICHIGAN
COURT OF APPEALS

D. CRAIG HENRY,

Plaintiff-Appellee,

v

JUDITH MARIE BAUM,

Defendant-Appellant.

UNPUBLISHED

February 19, 1999

No. 200396

Genesee Circuit Court

LC No. 95-179333 DO

Before: Talbot, P.J., and Neff and Smolenski, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of divorce. We affirm.

The parties were married in 1990. Plaintiff, a self-employed attorney, earned in excess of \$100,000 a year. Defendant, an executive secretary, earned approximately \$50,000 a year. They spent lavishly and accumulated substantial debts. Defendant vacated the marital home in 1995, taking most of the furnishings with her.

The trial court found that both parties were at fault for the breakdown of the marriage. It awarded each party the property they brought to the marriage, the personal items they had in their possession (with three exceptions), and the debts each had in his or her own name. It required plaintiff to assume responsibility for a tax deficiency and declined to award defendant the entire \$108,000 in cash that she brought to the marriage, finding that she was only entitled to the \$60,000 she had invested in plaintiff's home.

Defendant contends that the trial court made erroneous findings of fact, resulting in an unfair and inequitable distribution of the property. In reviewing a dispositional ruling in a divorce case, this Court first reviews the trial court's findings of fact for clear error and then decides whether the dispositional ruling was fair and equitable in light of the facts. Dispositional rulings will be affirmed unless this Court is left with the firm conviction that the distribution was inequitable. *Hanaway v Hanaway*, 208 Mich App 278, 292; 527 NW2d 792 (1995).

The court may distribute all property, or the value thereof, that has “come to either party by reason of the marriage” MCL 552.19; MSA 25.99. “The goal of the court when apportioning a marital estate is to reach an equitable division in light of all the circumstances.” *Byington v Byington*, 224 Mich App 103, 114; 568 NW2d 141 (1997). “Each spouse need not receive a mathematically equal share, but significant departures from congruence must be explained clearly by the court.” *Id.* at 114-115. Among the factors to be considered are the source of the property; the parties’ contributions toward its acquisition and to the general marital estate; the duration of the marriage; the parties’ needs and circumstances; the parties’ ages, health, life status, and earning abilities; the cause of the divorce as well as past relations and conduct between the parties; interruption of the career or education of either party; and general principles of equity. *Hanaway, supra* at 292-293.

The trial court’s findings of fact were not clearly erroneous. The record contains ample support for the trial court’s finding that both parties spent more than they could afford. While defendant showed that she incurred expenses of at least \$75,000 to retire a second mortgage on, and for improvements to, plaintiff’s home, she did not show that her separate funds were used to pay the entire amount. Moreover, the evidence regarding fault created a credibility contest between the parties. Because “[c]redibility is a factor which the trial court alone may determine,” *Snyder v Snyder*, 42 Mich App 573, 578; 202 NW2d 504 (1972), its finding that both parties were at fault is not clearly erroneous. Finally, in light of all the circumstances, we find that the trial court’s division of the assets was fair and equitable.

Affirmed.

/s/ Michael J. Talbot

/s/ Janet T. Neff

/s/ Michael R. Smolenski