

STATE OF MICHIGAN  
COURT OF APPEALS

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SUSAN JEAN GREGORY,

Plaintiff-Appellee, Cross-Appellant,

v

JOHN ALBERT GREGORY,

Defendant-Appellant, Cross-  
Appellee.

UNPUBLISHED

May 4, 2001

No. 222029

Kent Circuit Court

LC No. 97-009311-DM

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Before: Hoekstra, P.J., and Whitbeck and Cooper, JJ.

PER CURIAM.

Defendant appeals by right from a judgment of divorce awarding plaintiff sixty percent of the marital estate. Plaintiff cross-appeals, challenging the value attributed to one of the items in the marital estate. We reverse in part, affirm in part, and remand to the trial court.

Defendant contends that the trial court did not adequately weigh all the relevant factors necessary to devise an equitable property division in this case. Rather, defendant contends, the trial court placed the fault for the breakdown of the marriage entirely upon defendant and on that basis awarded plaintiff the majority of the estate. We agree that the trial court failed to state, on the record, all the relevant factors necessary to reach an equitable division of property.

The goal in distributing marital assets in a divorce proceeding is “to reach an equitable distribution” of property “in light of all the circumstances.” *Byington v Byington*, 224 Mich App 103, 114; 568 NW2d 141 (1997). To reach an equitable division, the trial court should consider the duration of the marriage, the contribution of each party to the marital estate, each party's station in life, each party's earning ability, each party's age, health and needs, fault or past misconduct, and any other equitable circumstance. *McDougal v McDougal*, 451 Mich 80, 89; 545 NW2d 357 (1996), quoting *Sparks v Sparks*, 440 Mich 141, 158-160; 485 NW2d 893 (1992). The weight to be accorded these factors and the determination of which of the factors are relevant to each case is left in the discretion of the trial court. *Sparks, supra* at 158-159. However, while fault is one of the factors that may be considered by the trial court, it is not the only factor. *McDougal, supra* at 88. Therefore, in *McDougal*, our Supreme Court reversed the decision of the circuit court because it had placed excessive weight on the factor of fault. *Id.* at 89-90.

We believe that, as in *McDougal*, the circuit court in this case placed excessive weight on its conclusion that defendant had been at fault for the breakdown of the marriage. Indeed, the trial court stated only two factors, fault of defendant and plaintiff's need to carry on with her life, in concluding that the property should be divided with sixty percent awarded to plaintiff. Thus, we believe that the trial court gave disproportionate weight to the factor of fault.

Accordingly, we reverse and remand to the trial court for a division of property based upon all of the *McDougal* factors.<sup>1</sup>

Plaintiff, on cross-appeal, contends that the value of her embroidery machine<sup>2</sup> was incorrectly judged to be \$10,200. We review the valuation of an asset by a trial court in a divorce proceeding as a finding of fact that will only be overturned if it is found to be clearly erroneous. *Wellman v Wellman*, 203 Mich App 277, 278; 512 NW2d 68 (1994). A finding is clearly erroneous if, after a review of the record, this Court is left with a definite and firm conviction that the trial court made a mistake. *Id.* Because we conclude that there was evidence in the record to support the trial court's conclusion that the embroidery machine was worth \$10,200, we find that the trial court did not clearly err when it valued the embroidery machine as such.

At trial, the value of the embroidery machine was established by both plaintiff and defendant. Both parties testified at trial that they jointly contributed roughly \$10,000 towards the purchase of the embroidery machine. Plaintiff and her father testified that, approximately \$30,000 was loaned from plaintiff's father to the parties to pay for the remaining cost of the machine. From these facts, defendant infers that the purchase price of the embroidery machine was approximately \$40,000. Plaintiff, however, points to a "sales proposal" admitted at trial which reflects a price of roughly \$32,000 to refute the \$40,000 value asserted by defendant. Based on the \$40,000 price, defendant contends that the machine is now worth approximately \$10,000, which equals the amount of cash defendant claims was put toward the machine, based on the original price minus a \$30,000 debt. Plaintiff asserts that the machine is worth \$10,200 and subject to \$30,000 of debt, leaving a value of negative \$19,800. We conclude that the trial court did not commit clear error when it agreed with defendant's valuation.

Although the trial court apparently assumed at trial that the value of the machine was negative \$19,800, at the August 17, 1999 settlement hearing, the court stated as follows when confronted with the question of the value of the embroidery machine:

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<sup>1</sup> Defendant argues that the holding in *Lee v Lee*, 191 Mich App 73; 477 NW2d 429 (1991), should apply. Accordingly, defendant claims that the trial court is not required to "specifically state its findings regarding each consideration." *Id.* at 80. However, this Court notes that the *Lee* decision concerns alimony factors and not the division of property. *Id.* In either event, based upon the record, we are unwilling to engage in an analysis that was required of the trial judge in the first instance.

<sup>2</sup>At trial, the parties referred to the embroidery machine in both the singular and plural. Finding no clear evidence in the record that more than one machine was involved, we refer to the machine in the singular.

My clear intent – all the evidence at trial would indicate \$40,000 for the machine and had 30 – roughly \$30,000 indebtedness against it and I was taking that value and arriving at the 60/40 split. So I was considering that the embroidery machine had a net value of 10,000 or roughly \$10,000.

The trial court therefore clarified its earlier ruling, that plaintiff “will have the embroidery machine subject to the indebtedness thereon,” to mean that the embroidery machine was a \$10,200 asset, or equal in value to the amount of money the parties had contributed to its purchase. We believe this finding is supported by the record.

We reverse in part, affirm in part, and remand to the trial court for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Joel P. Hoekstra  
/s/ William C. Whitbeck  
/s/ Jessica R. Cooper