

STATE OF MICHIGAN  
COURT OF APPEALS

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GARY T. MORTON,

Plaintiff-Appellee,

v

LISA K. MORTON,

Defendant-Appellant.

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UNPUBLISHED

June 14, 2005

No. 253521

Kalamazoo Circuit Court

LC No. 02-005813-DM

Before: Hoekstra, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Defendant appeals as of right from the parties' judgment of divorce. We affirm.

Defendant argues that the trial court's method of dividing stock and stock options equally between the parties by awarding defendant the number of shares equal to one-half the net value of the stock as of October 15, 2002, rather than by awarding defendant one-half the number of all shares owned on that date irrespective of value is inequitable. We disagree.

"The dispositional ruling is discretionary and should be affirmed unless this Court is left with the firm conviction that the division was inequitable." *McNamara v Horner (After Remand)*, 255 Mich App 667, 670; 662 NW2d 436 (2003). The goal in distributing marital assets in a divorce proceeding is to reach an equitable distribution of property in light of all the circumstances. *McNamara v Horner*, 249 Mich App 177, 188; 642 NW2d 385 (2002). The determination of the proper time for valuation of an asset is in the trial court's discretion and is therefore reviewed for an abuse of that discretion. *Burkey v Burkey*, 189 Mich App 72, 76; 471 NW2d 631 (1991). This Court will uphold a valuation date so long as the court had a plausible reason for its decision. *Sullivan v Sullivan*, 175 Mich App 508, 510; 438 NW2d 309 (1989). In this case, the trial court noted that it was setting October 15, 2002, as the valuation date for the Stryker stock "based on some of the information provided by the ... joint expert in terms of the fact that the values are not predictable either before or after the parties ceased functioning as an economic unit" and a desire that the parties "be equal" as of this date. Furthermore, as noted in *Byington v Byington*, 224 Mich App 103, 113, 114 n 4; 568 NW2d 141 (1997), while the trial court should not consider the date of separation of the parties when determining what assets comprise the marital estate, it may consider this date when valuing those assets. The trial court also recognized that the stock price had increased by October 2002 but not by so much as to increase the tax consequences.

We find the trial court's desire to treat the parties as equals as of the date they stopped functioning as an economic unit and the trial court's recognition of the relative tax consequences of the proposed dates to be plausible reasons for valuing the stock as of October 15, 2002; therefore, the trial court did not abuse its discretion by doing so. Because defendant was awarded fifty percent of the value of the stock as of October 15, 2002, which mirrors the equal division of all the marital assets in this case, we find this disposition to be equitable.

Plaintiff argues that the trial court erred in including the unvested stock options in the marital estate because they represent compensation for future performance rather than compensation earned during the marriage. An appellee is limited to the issues raised by the appellant unless he cross-appeals as provided in MCR 7.207. *Barnell v Taubman Co*, 203 Mich App 110, 123; 512 NW2d 13 (1993). Plaintiff did not file a cross-appeal in this case; therefore, this issue is not properly before this Court. *Rohl v Leone*, 258 Mich App 72, 77 n 2; 669 NW2d 579 (2003).

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Kathleen Jansen  
/s/ Kirsten Frank Kelly