

STATE OF MICHIGAN
COURT OF APPEALS

CONSTANCE GROTH,

Plaintiff-Appellee,

v

RONALD GROTH,

Defendant-Appellant.

UNPUBLISHED

April 2, 2002

No. 222804

Wayne Circuit Court

LC No. 98-827798-DM

AFTER REMAND

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

PER CURIAM.

This case returns to this Court after remand for further articulation of the trial court's factual findings regarding the division of marital assets. We now affirm.

In *Sparks v Sparks*, 440 Mich 141, 159-160; 485 NW2d 893 (1992), our Supreme Court outlined the factors that a trial court should consider when dividing marital assets:

- (1) duration of the marriage, (2) contributions of the parties to the marital estate, (3) age of the parties, (4) health of the parties, (5) life status of the parties, (6) necessities and circumstances of the parties, (7) earning abilities of the parties, (8) past relations and conduct of the parties, and (9) general principles of equity.

Not all of these factors will be relevant to a particular case, and additional factors not listed above may be applied. *Id.* "The determination of relevant factors will vary depending on the facts and circumstances of the case." *Id.* at 160. However, the trial court must make specific factual findings regarding those factors that are relevant. *Id.* at 159. This requirement is designed to "result in greater consistency and provide for more effective and meaningful appellate review." *Id.*

[T]he appellate standard of review of dispositional rulings is not limited to clear error or to abuse of discretion. The appellate court must first review the trial court's findings of fact under the clearly erroneous standard. If the findings of fact are upheld, the appellate court must decide whether the dispositive ruling was fair and equitable in light of those facts. . . . [T]he ruling should be affirmed

unless the appellate court is left with the firm conviction that the division was inequitable. [*Id.* at 151-152.]

On remand, the trial court issued a written opinion which details its findings regarding each of the *Sparks* factors. Based on our review of the lower court record, we cannot conclude that the trial court's findings of fact were clearly erroneous. *Id.* at 151-152. Having upheld those findings of fact, we must now consider whether the dispositive ruling was fair and equitable in light of those facts. *Id.* Defendant argues that the trial court's ruling was neither fair nor equitable because the property division disproportionately favored plaintiff. Given the trial court's findings, the record evidence regarding the parties' assets, defendant's refusal to provide documentation regarding the value of some assets, and plaintiffs' commitment to care for the parties' handicapped daughter, we conclude that the trial court's division of marital property was eminently fair and equitable.

Defendant also argues that the trial court was not permitted to consider misconduct or fault when dividing the marital assets, unless the misconduct or fault had "economic consequences." We conclude that defendant's reliance on *Vance v Vance*, 159 Mich App 381; 406 NW2d 497 (1987) for this proposition is misguided. Michigan law clearly permits a trial court to consider marital misconduct and fault as a factor in its division of marital assets. *Sparks*, *supra* at 159-160; *Navarre v Navarre*, 191 Mich App 395, 400; 479 NW2d 357 (1991); *Burkey v Burkey (On Rehearing)*, 189 Mich App 72, 78; 471 NW2d 631 (1991). Although the trial court did attribute significant fault to defendant, particularly with respect to his physical and mental abuse of both plaintiff and the parties' handicapped child, we do not believe that the trial court accorded disproportionate weight to this single factor. Rather, we conclude that the trial court weighed each of the *Sparks* factors and reached a fair and equitable result.

In our prior opinion, we affirmed the trial court's award of alimony and attorney fees to plaintiff.¹ We do not disturb those rulings.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael R. Smolenski
/s/ Michael J. Talbot

¹ *Groth v Groth*, unpublished opinion per curiam of the Court of Appeals, issued November 2, 2001 (Docket No. 222804).