

IN THE COURT OF APPEALS OF TENNESSEE

EASTERN SECTION

**FILED**

**August 28, 1996**

**Cecil Crowson, Jr.**  
Appellate Court Clerk

BRENDA JEAN THOMPSON

Plaintiff - Appellee

v.

JERRY F. THOMPSON

Defendant - Appellant

) BRADLEY COUNTY

) 03A01-9602-GS-00052

) HON. C. VAN DEACON, JR.,  
) JUDGE

)  
)  
) REMANDED

LYNN PERRY and TERRI L. LACEY OF CLEVELAND FOR APPELLANT

B. PRINCE MILLER, JR., OF CLEVELAND FOR APPELLEE

O P I N I O N

Goddard, P. J.

Jerry F. Thompson appeals a divorce decree of the General Sessions Court for Bradley County, complaining that the division of marital property was inequitable and that an award of rehabilitative alimony for 30 months at the rate of \$200 per month was unwarranted.

The parties had been married approximately 16 years and no children were born to their marriage. Both had been previously married.

The husband's appeal contends that the Court's division of marital property, after deducting debts ordered to be paid by the Court, gave the wife \$112,500, which is 77 percent of their marital estate, and him only \$34,500, which is 23 percent.

On the other hand, the wife points out that she contributed to their marital residence \$42,000 of her separate property, which was her equity in the residence she owned at the time of their marriage.<sup>1</sup> She also points out that the husband is not counting a retirement asset incident to his employment, which for the most part was accumulated during their marriage. The value of this asset was never disclosed to the Court. She argues in light of the fact that the husband was less than forthcoming relative to two other assets, a 401-K plan and stock in the corporation where he was employed, which was only disclosed at a hearing subsequent to the divorce proceeding, we should assume the value of his retirement plan was sufficiently large to make the division of property equitable.

Because making this assumption might very well prove to be an injustice to the husband and, because assuming that this asset is valueless requiring a reallocation of the marital

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<sup>1</sup> The husband contends this equity was \$26,000.

property could very well be an injustice to the wife, we believe it is appropriate in the interest of justice to both parties to remand the case to the Trial Court for a hearing as to the value of this asset and in accordance with the provisions of T.C.A. 27-3-128. In the event the asset has no significant value, the Trial Court should reassess his division of marital property and make such division as is warranted.

For the foregoing reasons the case is remanded to the Trial Court for further proceedings not inconsistent with this opinion. Costs of appeal are adjudged one-half against the husband and one-half against the wife.

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Houston M. Goddard, P. J.

CONCUR:

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Herschel P. Franks, J.

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Charles D. Susano, Jr., J.