

The primary issue at trial, therefore, was the valuation of various real properties jointly owned by the parties. The Wife presented the testimony of James Duke, a licensed real estate appraiser whose qualifications as an expert witness were stipulated. Duke based his valuations of the real properties on comparable sales in the same or similar communities.

The Husband, on the other hand, presented his own opinion testimony as to the values of the properties. The Husband testified that his valuations were based on the prices for which he purchased the properties, as well as his personal knowledge of the properties and their respective communities. The Husband also opined that the total value of the properties should be reduced by \$6,590.93 in city and county *ad valorem* taxes which were assessed against the properties in October 1995. Since the parties' separation, the Husband had received all of the rental income from the properties, totaling \$37,580; however, the Husband had not paid the assessed taxes at the time of the December 1995 trial.

The only issues on appeal relate to the valuation of the parties' jointly-owned real properties and the Wife's entitlement to alimony *in solido* for her expenses and attorney's fees. Specifically, the Husband contends that the trial court erred (1) in failing to give consideration to the Husband's testimony regarding the value of the parties' jointly-owned real properties; (2) in failing to consider city and county *ad valorem* taxes as an indebtedness encumbering the parties' jointly-owned real properties; and (3) in ordering the Husband to pay, as alimony *in solido*, the Wife's expenses incurred in these proceedings, including \$6,562.50 in attorney's fees.

We first conclude that the trial court did not err in valuing the parties' real properties based upon the testimony of the Wife's expert, James Duke. As best we can discern, the Husband's argument on appeal appears to be that his own testimony as to the value of the real properties was more probative than that of Duke and, thus, that the trial court should have given greater weight to the Husband's testimony. Any conflict in testimony, however, was for the trial court to resolve. The trial court adopted Duke's valuations of the properties, in part persuaded by the fact that Duke was a "disinterested third party." Absent real evidence compelling a contrary conclusion, the trial court's decision resolving this conflict is binding on the appellate court. *Hudson v. Capps*, 651 S.W.2d 243,

246 (Tenn. App. 1983). In this regard, we reject the Husband's argument that his own testimony compelled a result different than that reached by the trial court.²

Under the circumstances of this case, we also reject the Husband's argument that the real properties' values should have been reduced by the amount of assessed *ad valorem* taxes which remained unpaid at the time of trial. In the final divorce decree, the trial court indicated that it had considered this argument, but the court ruled that any entitlement to a credit for the assessed taxes, as well as other credits claimed by the Husband, were offset by the Wife's prior contribution of a \$25,000 inheritance to the marital estate. Further, after the parties' separation, the Husband received all of the rental income from the properties, and he was solely responsible for the business of renting the properties and paying all necessary expenses. Based on these factors, the trial court properly declined to give the Husband credit for the unpaid taxes.

Finally, we affirm the trial court's award of expenses and attorney's fees to the Wife. The decision to award attorney's fees in a divorce action rests within the sound discretion of the trial court and will not be disturbed on appeal, unless the evidence preponderates against such a decision. *Houghland v. Houghland*, 844 S.W.2d 619, 623 (Tenn. App. 1992). The Husband contends that the trial court in this case erred in ordering him to pay expenses and attorney's fees incurred by the Wife because the Husband lacked the ability to make these payments. Specifically, the Husband points out that he was unemployed at the time of the December 1995 trial.³ We note, however, that in the year prior to the divorce, the Husband earned approximately \$26,800 from his employment as an industrial engineer with Douglas and Lomason and, further, that since the parties' separation, the Husband alone has received \$37,580 in rental income from the parties' jointly-owned real properties.⁴ In light of these factors, as well as the parties' stipulation that the Husband was at fault

²We also note that, although the Husband's valuations were consistently lower than those of Duke, in most instances their valuations were within \$1,000 or \$2,000 of one another.

³The Wife was experiencing a temporary layoff at the time of trial.

⁴The Husband testified that the rental business was operating at a loss; however, the trial court could have disbelieved this testimony. We note that the Husband lives in one of the rental houses with a roommate but does not charge the roommate rent. We also note that, at the post-trial hearing on attorney's fees, it was revealed that the Wife had discovered a Union Planters Bank account containing over \$6,000 which the Husband had not revealed at trial.

in the breakup of the marriage, we conclude that the evidence does not preponderate against the trial court's decision ordering the Husband to pay the Wife's expenses and attorney's fees. *Storey v. Storey*, 835 S.W.2d 593, 597-98 (Tenn. App. 1992). Wife's request that we remand this case to determine an award of attorney's fees incurred by her on appeal is denied.

The final divorce decree entered by the trial court is affirmed. Costs of this appeal are taxed to the Husband, for which execution may issue if necessary.

FARMER, J.

HIGHERS, J. (Concurs)

LILLARD, J. (Concurs)