

**IN THE COURT OF APPEALS OF TENNESSEE, WESTERN SECTION  
AT JACKSON**

---

<b>YVETTE MARTIN MOTT,</b>	)	Hardeman County Chancery Court.
	)	No. 9739
Plaintiff/Appellee.	)	
	)	C. A. No. 02A01-9601-CH-00008
VS.	)	
	)	Hon. John Hill Chisolm, Chancellor
<b>DONALD LEE MOTT,</b>	)	
	)	<b>AFFIRMED AND REMANDED</b>
Defendant/Appellant.	)	
	)	OPINION FILED:

**David H. Crichton**, Bolivar, Tennessee, for Defendant/Appellant.

**Don L. Dowden,**  
**Scot A. Bearup,**  
DOWDEN & ZDANCEWICZ, Memphis, Tennessee, for Plaintiff/Appellee.

<b>FILED</b>  <b>March 18, 1997</b>  <b>Cecil Crowson, Jr.</b> Appellate Court Clerk
---

---

**MEMORANDUM OPINION<sup>1</sup>**

---

**FARMER, J.**

Yvette Martin Mott (Wife) was awarded a divorce from Donald Lee Mott (Husband). He appeals contending that the trial court erred in the distribution of marital property.

Husband was awarded separate property valued at \$145,200. The marital property was equally distributed with each party receiving in excess of \$784,000. The parties married in 1959, separated in 1985 and divorced in 1994. There were no minor children at the time of the divorce. At the time of the divorce Husband was 59 years of age and Wife 55. Husband became disabled in 1993 and is currently in poor health and unable to work full time. Trial court's are directed to equitably divide marital property. T.C.A. § 36-4-121(a)(1). An equitable division is not necessarily an equal one. Trial courts are afforded wide discretion and are presumed to be correct

---

<sup>1</sup>**RULE 10 (COURT OF APPEALS). MEMORANDUM OPINION.** -- (b) The Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in a subsequent unrelated case.

unless the

preponderance of the evidence is otherwise. *Barnhill v. Barnhill*, 826 S.W.2d 443 (Tenn. App. 1991).

Husband contends that an equal distribution in this case is inequitable because Wife lived in Memphis for 9 of the 36 years of the marriage and during that time made no contributions to the household. We are unable to determine from the statement of the evidence why she left the marital residence but do note that the trial court awarded her the divorce on the basis of inappropriate marital conduct. Husband further asserts that he should have been awarded the house and five acres. He testified that this property was needed because of its use with the farm and because he has no other place to live. However, he did not elaborate on why the house was a necessary part of the farm.

Husband further contends that the distribution was inequitable because Wife received several parcels of commercial property which produce rental income. He argues that to deprive him of this property will deprive him of all but \$1,140 per month of his monthly income and that his expenses are approximately \$7,000 per month. We note that a good bit of these expenses include costs associated with the commercial property, \$1,000 per month alimony which he is no longer paying and \$2,200 per month designated as “living expenses paid to Donald Mott and family.” Husband testified he receives no income from the farming operation. His brother, Huey Mott, manages the farm and takes any profits or losses. No explanation is given as to why Husband does not receive any of the farm income. Husband requested of the trial court and was awarded various farm properties. He does not suggest a *quid pro quo* to Wife. Obviously, if he were to receive both the commercial property and the farm property the distribution would indeed be inequitable.

Having reviewed this record *de novo*, we do not find the evidence to preponderate against the distribution of marital property as awarded by the trial court. The judgment of the trial

court is affirmed and the costs of this appeal are taxed to Donald Lee Mott for which execution may issue if necessary.

---

FARMER, J.

---

CRAWFORD, P.J., W.S. (Concurs)

---

LILLARD, J. (Concurs)