

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 23, 2004**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 03-1962  
STATE OF WISCONSIN**

**Cir. Ct. No. 02FA000007**

**IN COURT OF APPEALS  
DISTRICT III**

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**IN RE THE MARRIAGE OF:**

**MARIE A. AMES,**

**PETITIONER-RESPONDENT,**

**V.**

**LARRY D. AMES,**

**RESPONDENT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Pierce County:  
ROBERT W. WING, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Larry Ames appeals his divorce judgment, arguing that the trial court erroneously exercised its discretion in dividing the marital estate. He contends that the court's equal division of certain real estate was error.

He further claims the court erroneously ordered him to pay the parties' credit card debt. Because the record reflects an appropriate exercise of discretion, we affirm the judgment.

¶2 Larry and Marie Ames were married in 1995 and separated in 2002. The trial court characterized their marriage as short-term and found that Marie brought little to the marriage in the way of assets or debts. All the assets the parties acquired during the marriage were acquired using Larry's premarital assets. The trial court specifically found:

The equity in every marital asset consist[s] of contributions from [Larry's] premarital assets or the ordinary appreciation in value of the assets because of economic circumstances. None of the equity in any of the marital assets was as a result of a contribution by [Marie]. ... While the law presumes that marital property should be divided 50/50, this case is clearly one in which the court should deviate from that presumptive equal split of marital assets and debt based on these findings.

¶3 The trial court also found, "This marriage was not an economic partnership; it was a sole proprietorship run by [Larry]." The court noted that Marie provided bookkeeping and secretarial services to one of Larry's businesses, Laramé Acrylics, for which she was paid \$300 to \$400 per week.

¶4 The court determined that Larry's two businesses, Laramé Acrylics and U.S. Traders, should be awarded solely to him along with the credit card debt, which the court found pertained solely to those businesses. The court found that by awarding Larry the businesses' assets, Larry received credit for the contributions he made to the marriage. The court also awarded to Larry tractors he owned before the marriage valued at \$8,000 and did not include those items in the equalized property division.

¶5 The court noted that the parties jointly owned the remaining real estate. The court determined that putting the real estate into joint ownership evidenced Larry's intent that both parties share those marital assets. Also, as the court found, much if not all of the debt associated with the real estate was the parties' joint obligation as well. The court divided the remaining real estate and personal property, resulting in \$166,742 awarded to Larry and \$106,033 awarded to Marie. The court ordered that Larry pay Marie the sum of \$30,355 to equalize the property division.

¶6 A property division is addressed to the trial court's discretion. *Peerenboom v. Peerenboom*, 147 Wis. 2d 547, 551, 433 N.W.2d 282 (Ct. App. 1988). This court will interfere with the exercise of that discretion only when it is erroneously exercised. A trial court improperly exercises its discretion when it fails to consider legally relevant factors, acts on mistaken facts, makes an inadequate or excessive division or applies an erroneous view of the law. *Duffy v. Duffy*, 132 Wis. 2d 340, 343, 392 N.W.2d 115 (Ct. App. 1986). With the exception of items acquired by gift, bequest, devise or inheritance, WIS. STAT. § 767.255<sup>1</sup> requires the court to presume that all property is to be divided equally between the parties. *Mack v. Mack*, 108 Wis. 2d 604, 607, 323 N.W.2d 153 (Ct. App. 1982). The court may alter this distribution only after considering the relevant factors listed in § 767.255(1)-(12). *See Mack*, 108 Wis. 2d at 607.

¶7 After weighing the relevant factors, the court must explain their effect upon the decision to divide property unequally. *Arneson v. Arneson*, 120

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

Wis. 2d 236, 254, 355 N.W.2d 16 (Ct. App. 1984). The trial court may not ignore those factors that are clearly relevant. *Id.*

¶8 Larry argues, “It is apparent that the circuit court in the present case ignored the factors set out by Wisconsin statutes, instead, choosing to override those statutory factors based on the joint ownership of the title.” Larry argues that the court erroneously failed to award him his entire contribution to the homestead, a house, and two parcels of vacant land. He claims he is entitled to this property, which would result in an additional award to him totaling approximately \$104,000. We disagree.

¶9 The court did not make specific findings with respect to the values of business properties that were awarded exclusively to Larry. Larry’s testimony indicated that neither business as an ongoing concern had any value, but that the Laramie realty was worth \$32,400 and the Red Wing property was worth \$86,400.<sup>2</sup> In addition, the tractors awarded to Larry were valued at \$8,000. The credit card debt was in excess of \$72,000. The trial court specifically determined that Larry’s contributions called for an unequal property division and awarded the properties to Larry, along with the debt. The court found that the unequal property division compensated Larry for the property he brought to the marriage.

¶10 Here, the trial court discussed the appropriate factors, and the record supports its decision. The trial court considered the length of the marriage and the property brought to the marriage by each party. WIS. STAT. § 767.255(3)(a) and (b). The court also considered that the parties had no children and Marie made

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<sup>2</sup> Marie valued the properties considerably higher.

minimal, if any, economic contribution. *See* WIS. STAT. § 767.255(3)(d). The court also considered that the parties did not conduct their marriage as an economic partnership, but as a sole proprietorship run by Larry. *See* WIS. STAT. § 767.255(3)(m). The court determined that based on these factors, the property division should deviate from an equal division. The record fails to support Larry's contention that the court ignored pertinent statutory factors. Because the record reflects an appropriate discretionary exercise, it will not be overturned.

¶11 Next, Larry argues that the court erroneously ordered that he be responsible for the credit card debt. Larry acknowledges:

The credit card debt was incurred, in part, to pay for inventory for the two (2) businesses owned by the parties; U.S. Traders and Laramé Acrylics. The Platinum Visa was primarily used for Laramé Acrylics, a pre-marital business that was awarded to [Larry]. The majority of the credit card debt was attributable to the marital business, U.S. Traders.

Larry emphasizes Marie's role, arguing that U.S. Traders was started during the marriage and that Marie worked there. He refers to it as "the marital business."<sup>3</sup> The trial court awarded these two businesses to Larry. The court found that Marie's involvement in the businesses was limited to bookkeeping and secretarial services. The court observed that the marriage was conducted like a sole proprietorship run by Larry. Because the businesses were excluded from the property division, the trial court reasonably excluded the debt associated with the businesses from the property division. We conclude that the record demonstrates

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<sup>3</sup> This argument cuts against his previous implicit contention that Marie's lack of contribution during the marriage should deprive her of an equal property division.

a rational basis to support the court's discretionary order that Larry be responsible for the credit card debt.

*By the Court.*—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

