SUPREME JUDICIAL COURT OF MASSACHUSETTS

Nancy W. Adams v. Nicholas C. Adams

459 Mass. 361 (2011) · No. SJC-10671 · Decided April 14, 2011

SUMMARY

The Supreme Judicial Court of Massachusetts held that, under G. L. c. 208, § 34, the present value of a spouse's interest in an established partnership producing consistent profits and annual cash distributions may be included in the marital estate for equitable distribution. The court nevertheless concluded that errors in the valuation methodology used for the husband's Wellington partnership interest required recalculation and remanded for that purpose. The judgment of divorce was affirmed in all other respects.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Cordy, J.; Ireland, J.; Spina, J.; Botsford, J.; Gants, J.
JURISDICTION	Massachusetts
DECIDED	April 14, 2011
DOCKET	SJC-10671
DISPOSITION	vacated
PROCEDURAL POSTURE	Husband appealed from a judgment of divorce entered by the Probate and Family Court and obtained direct appellate review in the Supreme Judicial Court.
STANDARD OF REVIEW	Equitable-distribution decisions are reviewed to determine whether the judge considered all relevant statutory factors and whether the reasons for the conclusions are apparent in the findings and rulings; the property division is not reversed unless plainly wrong and excessive. Valuation findings are reviewed for clear error, and a valuation method may be rejected when it would clearly produce an arbitrary result.
PRECEDENTIAL VALUE	Published binding precedent
PARTIES	Nicholas C. Adams v. Nancy W. Adams

TOPICS

equitable distribution · divorce · child support · statutory interpretation · appellate procedure

PRACTICE AREAS

family law · divorce · equitable distribution · child support · appellate procedure

QUESTIONS PRESENTED

1. Whether the present value of the husband's partnership interest in Wellington Management could be included in the divisible marital estate under G. L. c. 208, § 34.
2. Whether the direct-capitalization-of-income method used to value the partnership interest was legally and factually proper.
3. Whether the valuation improperly used inconsistent assumptions and tax rates for the partnership's profit distributions and withdrawal payments.
4. Whether the trial judge abused discretion in equally dividing the marital estate, denying bifurcation, determining custody, and awarding child support.
5. Whether the appellate impoundment order should be vacated in part to make information necessary to resolve the appeal public.

HOLDINGS

1. A divorcing spouse's interest in a partnership that produces a consistent stream of profits and reliably distributes those profits over a period long enough to permit fair appraisal may, in the trial judge's discretion, be assigned to the marital estate and equitably distributed under G. L. c. 208, § 34.
2. The direct-capitalization-of-income method was clearly erroneous for valuing this partnership interest because it assumes perpetuity, whereas the relevant cash flow was finite and consisted of distributions through expected retirement followed by withdrawal payments.
3. On remand, the judge or special master must apply consistent assumptions to the valuation of the partnership's profit distributions and withdrawal payments and provide a clearer explanation of the tax rates used to tax-affect the transfer.
4. The equal division of the marital estate was not plainly wrong and excessive and was supported by the statutory factors and the parties' financial and homemaking contributions.
5. The child-support award was not improper double dipping because the income used for support was distinct from the partnership interest assigned to the marital estate.

KEY QUOTATIONS

> *"Accordingly, we hold that a divorcing spouse's interest in a partnership that produces a consistent stream of profits, and reliably disburses those profits to the partner spouse over a period long enough to appraise the present value of the partnership interest fairly, is, in the discretion of the judge, assignable to the marital estate if its inclusion would achieve a fair financial settlement."* (459 Mass. at 378)

> *"It was, however, error to use that method in this case because the husband's Wellington partnership interest was delimited by a finite period of cash flow."* (459 Mass. at 387)

FACTUAL BACKGROUND

The parties married in 1997 and had four children, with the wife serving as the primary caregiver and managing much of the household and family finances. The husband was a partner at Wellington Management and received variable compensation consisting of salary, incentive compensation, return on capital, and merit distributions. The Probate and Family Court included the present value of the husband's Wellington partnership interest in the marital estate and valued it at $80,956,975 using a direct-capitalization method. The marriage was dissolved after separation in 2005-2006, and the parties litigated the marital estate, custody, and support issues extensively.

PROCEDURAL HISTORY

The Probate and Family Court entered a judgment of divorce that equitably divided the marital estate, including a valuation of the husband's Wellington Management partnership interest at $80,956,975, and awarded child support while denying alimony. The trial judge adopted a special master's valuation report. The husband appealed, challenging the partnership-interest valuation, property division, bifurcation, custody, child support, taxes, and related rulings. The Supreme Judicial Court vacated the valuation portion and remanded for recalculation, affirming the judgment in all other respects.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the portion of the divorce judgment valuing the husband's Wellington partnership interest at $80,956,975 and remand for recalculation. The judge or special master must use a discounted-cash-flow methodology or an appropriate variant accounting for the finite distribution period, apply consistent assumptions to the profit-distribution and withdrawal-payment calculations, and provide a clearer explanation of the applicable tax-affecting rates. The judgment is affirmed in all other respects.

CASES CITED

- Adlakha v. Adlakha, 65 Mass. App. Ct. 860 (2006)
- Baccanti v. Morton, 434 Mass. 787 (2001)
- Bernier v. Bernier, 449 Mass. 774 (2007)
- Bowring v. Reid, 399 Mass. 265 (1987)
- Dalessio v. Dalessio, 409 Mass. 821 (1991)
- Drapek v. Drapek, 399 Mass. 240 (1987)
- Fechtor v. Fechtor, 26 Mass. App. Ct. 859 (1989)
- Hanify v. Hanify, 403 Mass. 184 (1988)
- Rice v. Rice, 372 Mass. 398 (1977)
- Redding v. Redding, 398 Mass. 102 (1986)
- Yannas v. Frondistou-Yannas, 395 Mass. 704 (1985)
- deCastro v. deCastro, 415 Mass. 787 (1993)
- Custody of Kali, 439 Mass. 834 (2003)

- Pearson v. Pearson, 52 Mass. App. Ct. 156 (2001)
- Republican Co. v. Appeals Court, 442 Mass. 218 (2004)
- Boston Herald, Inc. v. Sharpe, 432 Mass. 593 (2000)
- Seattle Times Co. v. Rhinehart, 467 U.S. 20 (1984)