

SUPREME COURT OF RHODE ISLAND

Marilyn J. Moretti v. Vincent F. Moretti

766 A.2d 925 (R.I. 2001) · No. No. 99-171-Appeal · Decided February 9, 2001

SUMMARY

The Rhode Island Supreme Court reviewed a divorce judgment involving valuation of a landscaping business, dissipation of marital assets, and rehabilitative alimony. The court held that a landscaping business may include an enterprise-goodwill component distinct from the owner's personal goodwill and remanded for reevaluation of that value. It affirmed the rulings concerning dissipation of assets and alimony.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Weisberger; Justice Lederberg; Justice Flanders; Justice Goldberg; Justice Bourcier
JURISDICTION	Rhode Island
DECIDED	February 9, 2001
DOCKET	No. 99-171-Appeal
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a Family Court judgment granting an absolute divorce, valuing the marital estate, awarding rehabilitative alimony, and finding dissipation of marital assets.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Vincent F. Moretti v. Marilyn J. Moretti

TOPICS

- equitable distribution
- dissolution of marriage
- alimony
- appellate procedure
- preservation of error

PRACTICE AREAS

- family law
- marital property valuation
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Family Court properly included goodwill in valuing the defendant's landscaping business for purposes of dividing the marital estate.
2. Whether the Family Court properly awarded rehabilitative alimony to the plaintiff.
3. Whether the Family Court properly found that the plaintiff dissipated \$46,700 in marital assets, including whether the defendant's spoliation argument was preserved.

HOLDINGS

1. A landscaping business is not barred as a matter of law from having a goodwill component in its corporate value, but the valuation must distinguish enterprise goodwill from personal goodwill and account for the risk that the business would lose value if the defendant left it.
2. The defendant's arguments challenging the award of rehabilitative alimony were without merit, and the appeal on that issue was denied and dismissed.
3. The appeal concerning dissipation of marital assets was denied and dismissed; the defendant's spoliation argument was waived because it had not been presented to the trial justice.

KEY QUOTATIONS

“Enterprise goodwill is an asset of the business and accordingly is property that is divisible in a dissolution to the extent that it inheres in the business, independent of any single individual's personal efforts and will outlast any person's involvement in the business.” (928)

FACTUAL BACKGROUND

The parties married in 1974 and separated in 1996. During the marriage, Vincent Moretti started and operated Tangleridge Landscaping, Inc., in which he was the sole owner and primary client-contact person. The Family Court included goodwill in valuing the business, found that Marilyn Moretti had dissipated \$46,700 in marital assets, and awarded her \$400 per week in rehabilitative alimony for five years.

PROCEDURAL HISTORY

After a trial in the Family Court, the court granted the parties an absolute divorce and resolved disputed issues concerning the value of the defendant's landscaping business, alleged dissipation of marital assets, and alimony. The defendant appealed. The Supreme Court of Rhode Island sustained the appeal as to the valuation of business goodwill, denied and dismissed the appeal on the remaining issues, and remanded for reconsideration of the goodwill valuation.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Family Court to reconsider the value of the goodwill of Tangleridge Landscaping, Inc., evaluating enterprise goodwill as distinct from personal goodwill and taking into account the applicable risk factor if the

defendant left the business.

CASES CITED

- Becker v. Perkins-Becker, 669 A.2d 524, 528 (R.I. 1996)
- Yoon v. Yoon, 711 N.E.2d 1265, 1268-69 (Ind. 1999)

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