SUPREME COURT OF CONNECTICUT

Penny Oudheusden v. Peter Oudheusden

Oudheusden · No. SC 20330 · Decided October 19, 2021

SUMMARY

The Connecticut Supreme Court reviewed an appeal concerning a marital dissolution judgment that awarded permanent, nonmodifiable alimony of $18,000 per month and distributed half the value of the defendant's closely held businesses to the plaintiff. The court held that the trial court abused its discretion by failing to adequately consider the defendant's age, health, and future earning capacity before imposing the lifetime, nonmodifiable alimony obligation. The court also held that awarding a share of a business's value and alimony based on income from that business does not constitute impermissible double counting, while affirming the remand for new financial orders.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	D'Auria, J.; Robinson, C. J.; McDonald, J.; Mullins, J.; Kahn, J.; Ecker, J.
JURISDICTION	Connecticut
DECIDED	October 19, 2021
DOCKET	SC 20330
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiff appealed to the Connecticut Supreme Court, after the court granted certification, from the Appellate Court's partial reversal of the trial court's financial orders in a marriage dissolution action.
STANDARD OF REVIEW	Review of financial orders in a marital dissolution case is limited to whether the trial court correctly applied the law and reasonably could have reached its conclusion. Every reasonable presumption is made in favor of the correctness of the trial court's action. An abuse-of-discretion standard applies to the trial court's exercise of its broad discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Penny Oudheusden v. Peter Oudheusden

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by awarding permanent alimony of $18,000 per month that was nonmodifiable as to both duration and amount without adequately considering the defendant's age, health, future earning capacity, and the possibility of a substantial change in circumstances.
2. Whether the trial court improperly double counted the value of the defendant's businesses by using business value in the property distribution and the defendant's actual income from those businesses in calculating alimony.

HOLDINGS

1. The trial court abused its discretion by awarding $18,000 per month in permanent alimony that was nonmodifiable as to duration and amount because the record did not show adequate consideration of the defendant's age, health, future earning capacity, and the realistic possibility that illness, disability, retirement, or economic conditions could impair his ability to pay.
2. The trial court did not improperly double count because the rule against double counting does not apply when the distributed asset is the value of a business and alimony is based on the paying spouse's actual income from that business.

KEY QUOTATIONS

> *"It was unreasonable for the trial court to conclude that the defendant will have the ability to comply with this monthly alimony obligation for the rest of his life, however long that might be, without some provision for modification should health or economics prevent compliance."* (Part I)

> *"We conclude that the trial court did not improperly double count the value of the defendant's businesses in the present case because any rule against double counting does not apply when the distributed asset is the value of a business and the alimony is based on income earned from that business."* (Part II)

FACTUAL BACKGROUND

The defendant was the sole financial support of the plaintiff and the parties' children for many years, while the plaintiff primarily cared for the children and did not work outside the home for nearly three decades. The defendant's gross annual income was found to be $550,000, derived exclusively from two closely held businesses valued at $904,000. The trial court awarded the plaintiff $18,000 per month in permanent alimony that was nonmodifiable as to duration and amount, awarded each party half the businesses' value while giving the defendant full ownership, and entered additional property, insurance, debt, and fee orders.

PROCEDURAL HISTORY

The Superior Court dissolved the parties' marriage and entered financial orders, including $18,000 per month in permanent alimony that was nonmodifiable as to duration and amount, and awarded each party 50 percent of the value of the defendant's two businesses while allowing the defendant to retain full ownership. The defendant appealed, and the Appellate Court reversed the financial orders in part and remanded for a new hearing on all financial issues, concluding that the alimony award was an abuse of discretion and that the trial court had impermissibly double counted business income. The Connecticut Supreme Court granted the plaintiff's petition for certification, affirmed the Appellate Court's determination that the alimony award was an abuse of discretion, reversed its double-counting determination, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Appellate Court with direction to remand it to the trial court for a new hearing on all financial issues. The trial court was to be guided by the principles concerning consideration of statutory alimony factors, future ability to pay, business valuation, double counting, and overall fairness.

CASES CITED

- Oudheusden v. Oudheusden, 190 Conn. App. 169, 209 A.3d 1282 (2019)
- Misthopoulos v. Misthopoulos, 297 Conn. 358, 372, 999 A.2d 721 (2010)
- Greco v. Greco, 275 Conn. 348, 354-55, 360-63, 880 A.2d 872 (2005)
- Krafick v. Krafick, 234 Conn. 783, 804-06, 663 A.2d 365 (1995)
- Gabriel v. Gabriel, 324 Conn. 324, 336, 152 A.3d 1230 (2016)
- Hornung v. Hornung, 323 Conn. 144, 162-64, 146 A.3d 912 (2016)
- Blake v. Blake, 211 Conn. 485, 498, 560 A.2d 396 (1989)
- Eckert v. Eckert, 285 Conn. 687, 693, 941 A.2d 301 (2008)
- Amodio v. Amodio, 247 Conn. 724, 730, 724 A.2d 1084 (1999)
- Scoville v. Scoville, 179 Conn. 277, 279, 426 A.2d 271 (1979)
- Dan v. Dan, 315 Conn. 1, 11, 105 A.3d 118 (2014)
- State v. Chyung, 325 Conn. 236, 260 n.21, 157 A.3d 628 (2017)
- Eslami v. Eslami, 218 Conn. 801, 815, 591 A.2d 411 (1991)
- O'Brien v. O'Brien, 326 Conn. 81, 120-21, 161 A.3d 1236 (2017)
- Steneken v. Steneken, 183 N.J. 290, 301-04, 873 A.2d 501 (2005)
- Keane v. Keane, 8 N.Y.3d 115, 121, 861 N.E.2d 98, 828 N.Y.S.2d 283 (2006)
- McReath v. McReath, 335 Wis. 2d 643, 674-77, 800 N.W.2d 399 (2011)
- Lynch v. Lynch, 135 Conn. App. 40, 43 A.3d 667 (2012)
- Callahan v. Callahan, 157 Conn. App. 78, 95-97, 116 A.3d 317 (2015)
- McRae v. McRae, 129 Conn. App. 171, 188, 20 A.3d 1255 (2011)

- Utz v. Utz, 112 Conn. App. 631, 639-40, 963 A.2d 1049 (2009)
- Sampson v. Sampson, 62 Mass. App. 366, 374, 816 N.E.2d 999 (2004), review denied, 443 Mass. 1102, 820 N.E.2d 259 (2005)

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