

DAMARIS W. SMITH

v.

MICHAEL E. SMITH

Submitted on Briefs July 26, 2011  
Decided August 4, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, GORMAN, and  
JABAR, JJ.

#### MEMORANDUM OF DECISION

Michael E. Smith and Damaris W. Smith appeal from a judgment of divorce entered in the District Court (Ellsworth, *Gunther, J.*) after a hearing. The parties dispute the court's findings and decisions related to the division of marital property.

Contrary to Damaris's contentions, competent evidence in the record supports the court's findings that her shares in a closely held corporation had no value at the time of the marriage and that the increase in the shares' value was marital property because it resulted from her efforts during the marriage and Damaris did not carry her burden of demonstrating that the increase in value resulted from market forces or passive reinvestment. *See Warren v. Warren*, 2005 ME 9, ¶¶ 20, 26, 866 A.2d 97, 101, 103; 19-A M.R.S. § 953(2)(E) (2010). Contrary to Michael's contentions, the court did not err by declining to treat the corporation's real estate holdings as marital property, or by determining the value of Damaris's shares after it considered evidence including expert testimony and a buyout provision of the corporate bylaws. *See Robinson v. Robinson*, 2000 ME 101, ¶ 12, 751 A.2d 457, 460; *Sweeney v. Sweeney*, 534 A.2d 1290, 1292 (Me. 1987).

In addition, the court did not commit legal error by declining to treat as marital property the negative book value of Damaris's shares in another corporation. *See* 19-A M.R.S. § 953(2) (2010). Nor did the court abuse its

discretion by determining that potential liabilities associated with that corporation were too speculative to be considered in the allocation of marital property. *See Bradbury v. Bradbury*, 2006 ME 26, ¶ 7, 893 A.2d 607, 609.

Furthermore, the court did not err when it distributed the parties' marital property according to valuations at the time of distribution. *See* 19-A M.R.S. § 953(1) (2010) (including the "economic circumstances of each spouse at the time the division of property is to become effective" as a factor relevant to division of marital property). We also discern no abuse of discretion in the court's division of marital property or in the provisions of the judgment designed to effect that division, *see Catlett v. Catlett*, 2009 ME 49, ¶ 34, 970 A.2d 287, 293, *Tibbetts v. Tibbetts*, 2000 ME 210, ¶ 6, 762 A.2d 937, 939, because a divorce court has broad authority to consider the unique peculiarities of each case in fashioning a division of property that is just, *see, e.g., Lee v. Lee*, 595 A.2d 408, 411 (Me. 1991); *Axtell v. Axtell*, 482 A.2d 1261, 1263 (Me. 1984); *Lord v. Lord*, 454 A.2d 830, 834-35 (Me. 1983); *Fournier v. Fournier*, 376 A.2d 100, 103 (Me. 1977).

Finally, the court did not abuse its discretion in denying Michael's motion for findings of fact and conclusions of law, *see In re Cameron W.*, 2010 ME 101, ¶ 3, 5 A.3d 668, 669, because the judgment contained adequate findings to support the result and permit effective appellate review, *see id.*; *Dargie v. Dargie*, 2001 ME 127, ¶ 2, 778 A.2d 353, 355, and the court "is not required to explain the rationale used to support each finding of fact or conclusion of law," *Wandishin, v. Wandishin*, 2009 ME 73, ¶ 19, 976 A.2d 949, 954.

The entry is:

Judgment affirmed.

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