2013 IL App (4th) 130112-U

NO. 4-13-0112

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 6, 2013
Carla Bender
4th District Appellate
Court, IL

In re: MARRIAGE OF	)	Appeal from
TAMMIE E. CRAMM,	)	Circuit Court of
Petitioner-Appellee,	)	Adams County
and	)	No. 09D324
KEVIN V. CRAMM,	)	
Respondent-Appellant.	)	Honorable
	)	Mark A. Drummond,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Steigmann and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held*: Where the respondent ex-husband's nonmarital property was nearly double that of the marital estate, the trial court did not abuse its discretion when it (1) awarded petitioner ex-wife rehabilitative maintenance in the amount of $3,000 per month for 3 years, and (2) divided the marital property, awarding 60% to petitioner and 40% to respondent.

¶ 2 In December 2009, petitioner, Tammie E. Cramm, filed a petition for dissolution of marriage against her husband, respondent Kevin V. Cramm. In November 2012, the trial court entered its judgment of dissolution. The trial court awarded petitioner a 60% share of the marital assets and $3,000 per month maintenance for three years with payments to begin immediately upon the entry of the judgment. Respondent filed a motion to reconsider, but the trial court denied the motion. Respondent appeals the denial of his motion to reconsider and the judgment of dissolution and argues the trial court erred in (1) awarding petitioner maintenance of $3,000

per month for three years and (2) awarding petitioner a 60% share of the marital property. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In March 1989, petitioner married respondent. After the parties married, they moved to Mendon, Illinois, and they continued to live there until October 2009, when the parties separated. When they married, respondent was self-employed as a farmer. Petitioner was employed as a substitute teacher and later became a full-time teacher's aide.

¶ 5 In January 1995, respondent was diagnosed with diverticulitis. The illness caused respondent to require surgery, during which the surgeon abraded respondent's cornea. In January 1997, respondent filed suit for malpractice against the surgeon. The medical malpractice case went to trial, and in August 2000, the jury entered a verdict in favor of respondent. The jury awarded respondent $557,500 in damages, including $150,000 for loss of normal life, $100,000 for pain and suffering, $7,500 for medical expenses incurred as of the date of the award, and $300,000 for lost income and future lost income. The jury also awarded petitioner $50,000 for loss of consortium. The entire award was placed into an investment account that was held jointly with the right of survivorship by each party.

¶ 6 The corneal scarring on respondent's left eye as a result of the abrasions on the cornea caused respondent a great deal of pain. He was determined to be legally blind in his left eye, while his right eye had 20/20 vision with corrective lenses. He made frequent visits to various ophthalmologists during the late 1990s and early 2000s, but those visits became much less frequent as time passed. Respondent will always have some discomfort in his left eye as a result of the abrasions to his cornea, but it does not appear frequent treatment of the left eye will

be required.

¶ 7 Some evidence suggested, however, respondent's eye condition had not affected and will not affect his work as a farmer. In fact, respondent's ophthalmologist stated, as far as she knew, respondent's left eye injury has not impacted his ability to drive. Respondent is still licensed to drive in the State of Illinois. Respondent's ophthalmologist testified respondent never reported any inability to perform his daily activities, nor did he report any inability to perform his farming activities. Evidence showed in the time following the malpractice, the parties' neighbors, petitioner, and their daughter all helped with the farmwork. Respondent also had to hire out some of his farming activities, such as "spraying," as those activities would irritate his injured eye.

¶ 8 In December 2009, petitioner filed for divorce in the Adams County circuit court. Petitioner was then working as a full-time teacher's aide and taking home $176.41 per month in net pay (approximately $790 was deducted each month from her pay for the family's health insurance). Respondent was self-employed as a farmer and earning an "average disposable income" (or net income) of $72,107 per year. The parties' daughter was enrolled at Western Illinois University, and the parties were paying their daughter's tuition and room and board.

¶ 9 In May 2010, respondent's uncle passed away, leaving respondent approximately 240 acres of farmland on which respondent had previously been paying rent, as well as his farming equipment and machinery. Respondent also received a one-third interest in his uncle's residence subject to the life estate of his uncle's wife. Respondent's receipt of these assets was pending at the time of the proceedings in this case.

¶ 10 In November 2012, the trial court entered its judgment of dissolution of marriage.

Pursuant to the judgment of dissolution, the Adams County judge ordered respondent to begin paying petitioner $3,000 per month maintenance immediately and to continue for three years.

¶ 11 The trial court then divided the parties' marital property, ordering the marital estate, valued at $1,036,346, be split with petitioner receiving a 60% share and respondent receiving a 40% share. The couple had one significant group of assets that made up a majority of their marital estate: investment accounts with Investment Planners, Inc., which contained the personal injury awards received as a result of the medical malpractice lawsuit. The balance of those accounts in April 2012 was $640,219. The parties had other marital property, including vehicles, farm equipment, an ownership interest in a time-share ranch in Caulfield, Missouri, bank accounts of the farm, beans in storage, and retirement funds and accounts.

¶ 12 Each of the parties had nonmarital property assigned by the trial court. Petitioner was assigned her 1964 John Deere tractor valued at $6,500, her Teacher's Retirement System account valued at $12,688, her wedding ring, and various household items and recreational equipment. Respondent, on the other hand, had a much greater amount of nonmarital property. Respondent was assigned the following nonmarital property: 66 acres of farm real estate valued at $346,000; the home on those 66 acres, valued at $125,000 (the home in which the parties lived was nonmarital property with $30,000 marital equity); 240 acres of farmland he had inherited from his uncle valued at $1,416,000; farm equipment valued at $31,645; and various items of personal property. In total, respondent's nonmarital property was valued at approximately $2 million.

¶ 13 In making its determination on maintenance, the trial court noted since respondent received nearly $2 million worth of property from his generous uncle, petitioner's request for

maintenance of $3,000 per month for three years was modest. The trial court stated because the marriage had lasted 22 years, and because petitioner assisted in the farming operation after respondent's injury, a larger maintenance award could have been considered by the court. But, because petitioner "seemed intent" on finishing her degree, the court found three years of rehabilitative maintenance was proper.

¶ 14 In making its determination on the division of property, the trial court specifically noted its consideration of respondent's request to receive a larger portion of the personal injury award. The court, however, decided because respondent had nonmarital assets totaling nearly twice the marital estate, a 60/40 split as to the marital property was proper.

¶ 15 II. ANALYSIS

¶ 16 A. Respondent's Motion To Strike

¶ 17 Respondent filed a motion to strike point III of petitioner's brief. Specifically, respondent would have the court strike portions of petitioner's brief stating facts without a citation to the record. Moreover, respondent asks this court to strike the portion of petitioner's brief arguing the trial court erred by failing to award petitioner a higher maintenance award and also permanent maintenance.

¶ 18 To assert purported errors to the appellate court, appellees are required to file a notice of cross-appeal. Ill. S. Ct. R. 303(a)(3) (eff. June 4, 2008); see *Martis v. Grinnell Mutual Reinsurance Co.*, 388 Ill. App. 3d 1017, 1024, 905 N.E.2d 920, 927 (2009). Petitioner argues in her brief that the trial court abused its discretion by not awarding permanent maintenance, but she failed to file a notice of cross-appeal. Therefore, the court is limited to the review of the issues presented by respondent. *Martis*, 388 Ill. App. 3d 1017, 1024, 905 N.E.2d 920, 927. While

petitioner's counsel should comply with the supreme court rules when writing appellate briefs, and we trust he will do so in the future, we need not strike point III of petitioner's brief, since this issue is not properly before us absent a cross-appeal. *Id*. Motion denied.

¶ 19 B. Maintenance Award

¶ 20 Respondent first contends the trial court erred in awarding petitioner $3,000 per month maintenance for three years. Respondent contends the trial court placed too much weight on his inheritance of nearly $2 million worth of nonmarital property (the farmland, farm equipment, and farm machinery) through the estate of a deceased uncle. Respondent argues because he has farmed and will continue to farm the inherited land, the land will not and cannot be liquidated to meet his needs. Moreover, respondent argues the maintenance award, which amounts to approximately 50% of his "average disposable income," is inappropriate where petitioner failed to demonstrate her "legitimate" monthly expenses to the trial court.

¶ 21 1. *Standard of Review*

¶ 22 Section 504(a) of the Illinois Marriage and Dissolution of Marriage Act (Dissolution Act) provides a trial court may award maintenance in an amount and for a duration the court deems just. 750 ILCS 5/504(a) (West 2010). In making its determination, the trial court is guided by section 504(a) of the Dissolution Act, which provides the trial court with a number of factors to consider, including the income and property of each party, the marital property apportioned and the nonmarital property assigned to the spouse seeking maintenance, the needs of the parties, "the present and future earning capacit[ies]" of the parties, the party seeking maintenance's diminished earning capacity resulting from forgoing educational or career opportunities and the devotion to domestic duties, the standard of living that the parties enjoyed

during the marriage, "the duration of the marriage," and any other considerations the court deems just and equitable. 750 ILCS 5/504(a) (West 2010).

¶ 23 A trial court has the discretion to award maintenance in an amount and for a duration as it deems just and equitable, and its determination will not be disturbed on appeal unless the challenging party can show the trial court abused its discretion. *In re Marriage of Brankin*, 2012 IL App (2d) 110203 ¶¶ 9-10, 967 N.E.2d 358. "[A] trial court's determination as to the awarding of maintenance is presumed to be correct. [citation]. *** '[R]eversal is justified only when it is obvious that the trial court acted arbitrarily or without conscientious judgment.' " *In re Marriage of Donovan*, 361 Ill. App. 3d 1059, 1063, 838 N.E.2d 310, 314 (2005) (quoting *In re Marriage of Schrimpf*, 293 Ill. App. 3d 246, 252, 687 N.E.2d 171, 175 (1997).

¶ 24 2. *The Maintenance Award Was Proper*

¶ 25 Here, the trial court was within its discretion when it ordered respondent to pay $3,000 per month maintenance for three years. The trial court specifically noted the duration of the marriage when it stated it could have considered ordering maintenance for a longer duration. The court also noted petitioner's contribution to the marriage through her help with the farming activities after respondent was injured. Further, the court considered the amount of nonmarital property respondent was assigned. Specifically, the court noted respondent was assigned approximately $2 million worth of nonmarital property, an amount nearly double the value of the marital estate.

¶ 26 a. The Trial Court's Alleged Error in the Weight Accorded Respondent's Inheritance

¶ 27 Respondent asserts the trial court placed too much weight on the fact he received approximately $2 million worth of property from his deceased uncle. Respondent argues "the

fact that [respondent] has an interest in this property should not be the most heavily weighed factor or the determinative factor authorizing the Court to award [petitioner] half of [respondent's] income as maintenance." We disagree.

¶ 28 Respondent cites no authority in support of this assertion. Further, we find his position conflicts with the law in Illinois. When deciding the issue of maintenance, Illinois courts must consider all the relevant factors in section 504(a) of the Dissolution Act, but the Dissolution Act does not require the trial court to give each statutory factor equal weight. *In re Marriage of Dunlap*, 294 Ill. App. 3d 768, 772, 690 N.E.2d 1023, 1026 (1998). Rather, the court must strike a reasonable balance under the circumstances of the case. *Id*. Here, respondent had a much greater earning capacity than did petitioner, he had nonmarital property nearly twice the size of the marital estate, and the marriage had lasted 20 years. We conclude the trial court struck a reasonable balance in awarding petitioner three years rehabilitative maintenance of $3,000 per month.

¶ 29 Further, respondent contends the trial court overlooked the fact at the time of the proceedings, respondent did not own the inherited land because the estate was still open and no distribution had occurred. Respondent would seemingly have this court find error where the court relied on his *pending* inheritance. Respondent cites no authority in support of this position and the argument is without merit. A trial court may properly consider future inheritances when making its determination of maintenance. See *Brankin*, 2012 IL App (2d) 110203, ¶ 10, 967 N.E.2d 358 (courts have wide latitude to consider what factors should be used in determining the needs of the parties and are not limited to the factors included in section 504(a) of the Dissolution Act); *In re Marriage of Smith*, 100 Ill. App. 3d 1126, 1130-31, 427 N.E.2d 1262, 1266

(1981) (the trial court did not err in considering a future inheritance as a " 'relevant economic circumstance' " in dividing property even though it was not certain when spouse would inherit the property because of probate procedures). Further, while "*potential inheritances* are not property which can be valued and awarded to a spouse," (*In re Marriage of Schmidt*, 242 Ill. App. 3d 961, 968, 610 N.E.2d 673, 678 (1993) (respondent stated he "may someday inherit a substantial sum of money from his parents," but court held an advancement was more than potential inheritance) (emphasis added)), at the time of the proceedings in the present case, respondent had a *vested interest* in the property to be inherited.

¶ 30 b. Petitioner's Alleged Failure To Demonstrate Her Legitimate Monthly Expenses

¶ 31 Alternatively, respondent argues because petitioner did not "demonstrate[] her legitimate monthly expenses," the award of 50% of respondent's income to petitioner was inappropriate. Further, respondent argues although petitioner "may wish to retain the standard of living she had on the farm with [respondent] *** it is not realistic for the Court to provide both [respondent] and [petitioner] with that pre-divorce standard of living." The court is required, however, to consider the standard of living the parties enjoyed during the marriage (750 ILCS 5/504(a)(6) (West 2010)), and the trial court is required to attempt to place the parties in a situation approximate to their predivorce standards of living. See *In re Marriage of Lenkner*, 241 Ill. App. 3d 15, 25, 608 N.E.2d 897, 904 (1993) ("[T]he dependent former spouse is entitled to continue to live in some approximation to the standard of living established during the marriage unless the payor spouse's financial situation, the duration of the marriage, or other factors indicate otherwise.").

¶ 32 Respondent contends petitioner provided "estimates" of certain expenses and

included "luxuries" such as pedicures and a Young Men's Christian Association (YMCA) membership in her pretrial affidavit. He is essentially arguing these expenses were not legitimate, and petitioner did not have these expenses during the marriage. In other words, petitioner inflated her expenses so as to mislead the trial court as to the predivorce standard of living to which the parties were accustomed.

¶ 33 We find, however, the trial court did not err in awarding petitioner maintenance in the amount stated. The court heard testimony and was presented evidence on petitioner's expenses. Although petitioner listed her monthly expenses as high as $4,398.63, which includes the "estimates" and "luxuries," the trial court awarded petitioner $3,000 per month. This amount, in addition to her monthly wages, approximated petitioner's predivorce standard of living while balancing the respondent's financial situation and was reasonable in light of the circumstances.

¶ 34 C. Property Distribution

¶ 35 Respondent contends the trial court erred in awarding 60% of the marital estate to petitioner. In particular, respondent takes issue with the trial court's award to petitioner of 60% of the remaining jury award the parties received as a result of the medical malpractice lawsuit. Respondent argues because he was the party actually injured, he is the party actually enduring the pain, and he is the party who must now face any future complications as a result of his injuries, he is entitled to a larger proportion of the jury award.

¶ 36 1. *Standard of Review*

¶ 37 Section 503(d) of the Dissolution Act provides the trial court "shall divide the marital property *** in just proportions considering all relevant factors, including" among others: the value of the property assigned to each spouse, "the duration of the marriage," each spouse's

age, health, occupation, employability, and amount and sources of income, whether the property award is in addition to or in lieu of maintenance, and the ability of either spouse to obtain capital assets and income in the future. 750 ILCS 5/503(d) (West 2010).

¶ 38 When a party challenges the distribution of property subsequent to a dissolution of marriage, the trial court's decision will only be disturbed if the party challenging the distribution can show that the trial court abused its discretion. *In re Marriage of Oden*, 394 Ill. App. 3d 392, 393, 917 N.E.2d 13, 15 (2009). The issue becomes not whether the reviewing court agrees with the court's distribution of the marital assets, but rather "whether the trial court acted arbitrarily without the employment of conscientious judgment or exceeded the bounds of reason and ignored recognized principles of law so that substantial injustice resulted." *In re Marriage of Stone*, 155 Ill. App. 3d 62, 75, 507 N.E.2d 900, 908 (1987).

¶ 39 *2. The Trial Court's Alleged Failure To Apportion the Bulk of the Personal Injury Award to Respondent*

¶ 40 Respondent argues the trial court erred by failing to apportion the personal injury award between the amount intended to specifically compensate respondent and the amount intended to compensate both parties. Specifically, respondent contends while petitioner may be entitled to 60% of the marital estate, petitioner is entitled only to the portion of the personal injury award intended to compensate the parties for respondent's lost income. In other words, petitioner is not entitled to any of the personal injury award intended to compensate respondent for his loss of normal life, pain and suffering, or future income after the judgment of dissolution.

¶ 41 The case respondent cites in support of this position is *In re Marriage of Murphy*, 259 Ill. App. 3d 336, 631 N.E.2d 893 (1994). His reliance is misplaced. In *Murphy*, as here, the

respondent had received a personal injury award while the parties were married. *Murphy*, 259 Ill. App. 3d at 337, 631 N.E.2d at 894. The *Murphy* court acknowledged that an entire personal injury award becomes part of the marital estate, citing *In re Marriage of Burt*, 144 Ill. App. 3d 177, 182, 494 N.E.2d 868, 871 (1986). *Murphy*, 259 Ill. App. 3d at 341, 631 N.E.2d at 896-97. The *Murphy* court explained *Burt* held such an award is entirely marital property, "despite the fact certain aspects of the cause of action involve a loss to an injured party that could not be considered to be shared by other parties." *Id*. The *Murphy* court upheld the trial court's division of property that awarded the respondent a greater proportion of the personal injury award. *Id*. at 344, 631 N.E.2d at 898. In making this determination, the court noted that the trial court properly considered the extent and nature of the injured spouse's injuries and the fact respondent held the future risk of those injuries. *Id*. at 342-43, 631 N.E.2d at 897-98.

¶ 42 Respondent would seemingly have us follow the "analytical approach" to personal injury awards as opposed to the "mechanical approach." Respondent urges that "assuming 60% was the proper distribution to [petitioner], only the lost income [accrued during the time of marriage] should have been so split ***." Under the "mechanical approach," the entire personal injury award or settlement is deemed marital property of which each party is entitled a distribution. See *Burt*, 144 Ill. App. 3d 177, 494 N.E.2d 868; *In re Marriage of Gan*, 83 Ill. App. 3d 265, 404 N.E.2d 306 (1980). Under the "analytical approach," a trial court will analyze the award and determine which portions thereof will be classified as marital property and which will be classified as nonmarital property. See *In re Marriage of Waggoner*, 261 Ill. App. 3d 787, 792-93, 634 N.E.2d 1198, 1201-02 (1994) (involving a permanent total disability workers' compensation award as opposed to a personal injury award).

¶ 43 The law in Illinois, however, is clear on this point: Illinois courts shall use the "mechanical approach" when classifying awards and settlements of this nature for distribution to the parties. See *In re Marriage of DeRossett*, 173 Ill. 2d 416, 419-21, 671 N.E.2d 654, 655-66 (1996) (taking the "mechanical" approach and holding the entire workers' compensation award was marital property, the court reasoned that section 503 of the Dissolution Act contained the entire definition of nonmarital property, which does not include workers' compensation awards); *In re Marriage of Hall*, 278 Ill. App. 3d 782, 784, 663 N.E.2d 430, 431 (1996) (holding a workers' compensation award that accrues during marriage to be entirely marital property); *Burt*, 144 Ill. App. 3d at 181, 494 N.E.2d at 871 (holding "all portions of a cause of action for personal injuries are marital property under section 503(a)" of the Dissolution Act); *In re Marriage of Smith*, 84 Ill. App. 3d 446, 454-55, 405 N.E.2d 884, 890 (1980) (holding disability pension benefits constituted marital property while noting the compensatory elements of certain portions of disability pension awards). The "mechanical approach" does not always have the effect of leaving the injured spouse disadvantaged, however, because trial courts are required to take into account the statutory factors for dividing marital property, and because "[t]he pain and suffering and disability of an injured spouse would be relevant considerations" for the court. *Burt*, 144 Ill. App. 3d at 182, 494 N.E.2d at 871.

¶ 44 Here, the trial court did exactly what the *Burt* court discussed. In its order awarding the parties their shares of the marital estate, the court "considered the [respondent's] claim that he should receive a larger share of the personal injury settlement," and the court "[took] that into account in the 60/40 division." The trial court addressed respondent's argument on this point at the hearing on the respondent's motion to reconsider, stating the court addressed

his argument in the previous order and took his argument into account in awarding petitioner 60% of the marital estate as opposed to 70% or 80%. Further, the trial court considered the fact respondent had been awarded nearly $2 million in nonmarital property in making its division of the marital estate.

¶ 45 Moreover, we must note the parties placed the entire personal injury award into a joint bank account held by the parties with right of survivorship. Even if the personal injury award was nonmarital property or partial nonmarital property at the time it was received, the trial court's determination the personal injury award was marital property would have been proper. See *In re Marriage of Cook*, 117 Ill. App. 3d 844, 850, 453 N.E.2d 1357, 1362 (1983) ("Nonmarital property may, however, be transmuted to marital property by affirmative acts of a party such as *** depositing nonmarital funds into a joint bank account from which marital expenses are paid (*In re Marriage of Leon*, (1980) "80 Ill. App. 3d 383, 385, *** 399 N.E.2d 1006 [,1008]."); *In re Marriage of Benz*, 165 Ill. App. 3d 273, 279, 518 N.E.2d 1316, 1319 (1988) (property designated as nonmarital may be "presumptively transmuted to marital property by affirmative act of the contributing spouse," and will be presumed a gift to the marital estate rebuttable only by clear and convincing evidence that no gift to the marital estate was intended).

¶ 46 *3. Respondent's "Comb the Books" Argument*

¶ 47 Respondent argues the trial court did not apply *Burt* to this case, and in fact, it did the opposite of what *Burt* authorized. Respondent takes issue with the portion of the court's order which "essentially states that [respondent should be happy with a 60/40 split, because the court could have given [petitioner] more." Respondent then notes the trial court cited cases in support of its division of the marital property affirming distributions of 74/26 and nearly 100% to

one spouse. Respondent argues as follows:

> "The Court, however, ignored those cases awarding a larger portion of personal injury proceeds to the injured spouse. See *DeBow*, 236 Ill. App. 3d 1038, 602 N.E.2d 984 (5th Dist. 1992) (awarding injured spouse 75% of personal injury award); *Murphy*, 259 Ill. App. [3d] 336, 631 N.E.2d 893 (4th Dist. 1994) (awarding injured spouse 83%); *In re Marriage of Adan*, 263 Ill. App. 3d 566, 635 N.E.2d 778 (1st Dist. 1994) (awarding injured spouse 94%); *In re Marriage of Pace*, 278 Ill. App. 3d 932, 664 N.E.2d 320 (1st Dist. 1996) (awarding injured spouse 75%); *In re Marriage of DeRossett*, 173 Ill.[]2d 416, 671 N.E.2d 654 (1996) (awarding injured spouse 70%); *In re Marriage of Zweig*, 343 Ill. App.[]3d 590, 798 N.E.2d 1223 (5th Dist. 2003) (awarding injured spouse 75%)."

¶ 48 In *People v. Terneus*, 239 Ill. App. 3d 669, 607 N.E.2d 568 (1992), we rejected a "comb the books" approach to sentence challenges in criminal cases. The "comb the books" approach is where a defendant " 'combs the books' to find a handful of cases presenting lesser sentences for the same statutory offense, thus enabling those defendants to then argue that the lesser sentences they found become the effective maximum sentences a trial judge can impose ***." *Terneus*, 239 Ill. App. 3d at 677, 607 N.E.2d at 573. Accord *People v. Fern*, 189 Ill. 2d 48, 55, 723 N.E.2d 207, 210 (1999). We likewise reject this approach to apportioning personal injury awards to parties in divorce proceedings.

¶ 49 *4. Respondent's "Double Dipping" Argument*

¶ 50 Respondent argues the trial court erred in its valuation of the farm bank account he was ultimately awarded. He argues the court "failed to recognize that $50,588 was the amount in that account as of May 2012, but out of that [respondent] paid [temporary] maintenance to [petitioner] for June, July, August, September, October, and November of $3,000 per month." Respondent asserts the value of the account as awarded to him should have been reduced by "at least" $18,000. By failing to reduce value of the account, respondent argues, the trial court allowed petitioner to "double dip" because petitioner received maintenance out of the account and the benefit of the account being assigned to respondent in its entirety.

¶ 51 Section 503(f) of the Dissolution Act provides the time for valuation of the marital and nonmarital property to be distributed to the parties. 750 ILCS 5/503(f) (West 2010). Section 503(f) states the property should be valued on the date of the trial or "some other date as close to the date of trial as is practicable." 750 ILCS 5/503(f) (West 2010). Typically, courts use the date the judgment of dissolution of marriage is entered to determine the value of marital and nonmarital property. See *In re Marriage of Mathis*, 2012 IL 113496, ¶ 24, 986 N.E.2d 1139 (approving a long line of cases treating the date of dissolution as the "date of trial" for purposes of section 503(f)). Failing to use the date of dissolution is not always error. See *In re Marriage of Courtright*, 155 Ill. App. 3d 55, 59, 507 N.E.2d 891, 894-95 (1987) (holding the court's use of valuations as old as 11 months to be proper given that the parties failed to provide the court with newer valuations). The trial court can properly make its determination on the evidence presented, using the values of property on the date such values were submitted. See *Id.*

¶ 52 On the last day of trial, the trial court asked the parties for a written summation in

lieu of closing arguments. Additionally, the court stated "all I really need from the parties is what they think the assets are and how they should be divided ***." On July 12, 2012, respondent filed his written summation in which respondent valued the bank account in question at $50,588. The court used the valuation as of that date in determining its division of the marital assets. When the court entered its judgment of dissolution in November 2012, respondent had not provided any other value to the court. Accordingly, we find respondent's argument as to petitioner's alleged "double dipping" to be without merit, and the valuation of the farm accounts to be proper.

¶ 53 *5. Overall Allocation of Marital Property*

¶ 54 The trial court did not make specific findings on each factor listed in section 503(d) of the Dissolution Act, and its order providing its reasoning for the maintenance and property awards is sparse. This, however, does not indicate the court abused its discretion. See *In re Marriage of Swanson*, 275 Ill. App. 3d 519, 528, 656 N.E.2d 215, 222 (1995) ("Although the trial court must consider all relevant statutory factors, it need not make specific findings as to the reasons for its award."). The court heard testimony regarding the injuries of respondent resulting from the malpractice he suffered, the incomes of the parties, the monthly expenses of the parties, the future earning capacities of the parties, the duration of the marriage, and the property assigned to each party and its value. The trial court heard each party's argument on this matter, and after taking it under advisement, issued its order.

¶ 55 The law presumes a trial judge listened to and considered the evidence and knew and applied the law correctly. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92, 459 N.E.2d 958, 959 (1984) (absent a complete record, "it will be presumed that the order entered by the trial court

was in conformity with law and had a sufficient factual basis"); *People v. Gaultney*, 174 Ill. 2d 410, 420, 675 N.E.2d 102, 107 (1996) ("We ordinarily presume that the trial judge knows and follows the law unless the record shows otherwise."). Although the trial judge failed to make specific findings on each section 503(d) factor, we find the record justifies the 60/40 division of the marital estate.

¶ 56 Respondent also contends the trial court relied "too heavily on [respondent's] pending receipt of a non-liquid, non-marital asset, which he did not yet own." This contention is without merit, however, for a trial court may consider future inheritance when weighing the " 'relevant economic circumstances' " in its property distribution. *Smith*, 100 Ill. App. 3d at 1130, 427 N.E.2d at 1266. In essence, the court awarded petitioner a larger share of marital cash and awarded respondent the income-producing marital and nonmarital property.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we affirm the trial court's judgment.

¶ 59 Affirmed.