

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-002575-MR

RICHARD OLDFIELD

APPELLANT

v.

APPEAL FROM MONTGOMERY CIRCUIT COURT
HONORABLE WILLIAM B. MAINS, JUDGE
ACTION NO. 01-CI-00066

PAMELA OLDFIELD (NOW LITTERAL)

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: DYCHE, HENRY, AND TACKETT, JUDGES.

DYCHE, JUDGE. Richard and Pamela Oldfield were married in October 1985. Their only child was born two years later. The Oldfields separated in March 2001, and the marriage was dissolved and all concomitant issues were ruled upon by November 2003. In Richard's appeal, he argues that the trial court erroneously classified and distributed various assets of the parties. We affirm.

Richard's first three claims of error involve his business, Oldfield's Used Cars in Mt. Sterling, Kentucky.

Richard insists that the business, including its goodwill and the lot on which it is located, is non-marital property.

There is no question that Richard owned and operated Oldfield's Used Cars prior to his marriage to Pamela. But in 1988-89 Richard served time in federal prison for convictions related to odometer fraud. During that time, Oldfield's Used Cars ceased operation: The sign was taken down, the inventory was sold, and the lot and office were leased to Dutch Ishmael. The property was mortgaged in excess of its value. Monies borrowed were used to pay debts and the fees and fines incurred by Richard's legal misfortunes.

When Richard was released from custody, he had to re-establish his used car business from scratch. The mortgages were repaid with marital funds. The business became incorporated during the marriage. Based upon these facts, the trial court found that Richard's premarital business became a nonentity and a new business (including its assets and goodwill) was created during the marriage. There is more than sufficient evidence in the record supporting the trial court's disposition of this asset. KRS 403.190. We affirm this finding.

We likewise cannot hold that the trial court erred in finding that Richard did not establish a non-marital interest in the home that he and Pamela built in 1993. It was Richard's contention then, as it is here, that he was entitled to a non-

marital claim for the value of the house he owned prior to his marriage to Pamela.

The trial court was not persuaded by the evidence presented on Richard's behalf. It found, rather, that the "parties extensively commingled their personal finances with the business. . . . [T]he Court determines that it has no accurate way of determining that any of this money actually did go toward the purchase of the home. The Court therefore determines that each of the parties [is] entitled to one-half (1/2) of the interest in the home" The trial court then awarded Richard several credits, totaling \$31,495.06, for work done on the home. It ultimately allocated each party half of the remaining \$218,966.73. And because he and the daughter continued to reside in the home, Richard was ordered to assume the outstanding mortgage on the property. There is substantial evidence of record to support the trial court's decision in this regard; hence we affirm same. KRS 403.190; Sexton v. Sexton, 125 S.W.3d 258, 266, 267 (Ky. 2004).

We are lastly asked to reverse the trial court's finding that Richard had dissipated \$20,000.00 in marital assets (the value of a Harley Davidson motorcycle sold after separation and while dissolution was pending). The record supports this finding as well. Brosick v. Brosick, 974 S.W.2d 498, 500-502 (Ky. App. 1998).

The judgment of the Montgomery Circuit Court is affirmed.

ALL CONCUR.

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