COURT OF APPEALS
DECISION
DATED AND FILED

November 9, 2006

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 2005AP2100 **Cir. Ct. No. 2003FA32**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

IN RE THE MARRIAGE OF:

MARY MADONA DELANEY,

PETITIONER-RESPONDENT,

V.

JOHN DALTON DELANEY,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Iowa County: EDWARD E. LEINEWEBER, Judge. *Affirmed.*

Before Dykman, Deininger and Higginbotham, JJ.

¶1 DEININGER, J. John Delaney appeals the judgment that divorced him from his former wife, Mary Delaney. He claims the circuit court erred in failing to give effect to a prenuptial agreement the parties had entered prior to their

marriage. John contends that, because Mary waived her right to further financial disclosure at the time the agreement was signed, the court should not have concluded that his failure to disclose the value of his assets rendered the agreement inequitable. He also claims the trial court erred by awarding him only fifty-five percent of the parties' divisible property and by awarding Mary certain items of tangible personal property. We affirm on all issues.

BACKGROUND

¶2 At the time of their marriage in September 1991, John worked as an engineer for the State of Wisconsin and Mary was a hairdresser. They had lived together for about a year before their marriage. Prior to getting married, they discussed entering into a prenuptial agreement. John retained an attorney to draft the agreement. Mary accompanied him on two occasions to meet with the attorney to discuss its terms. Mary was advised that she could obtain separate counsel to review the agreement but she chose not to do so.[1] Eighteen days before their wedding, Mary and John signed the agreement.

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[1] The agreement includes the following paragraph regarding "representation by counsel":

> Each party represents that this Agreement has been drafted by [attorney] at their request and not as a separate counsel for either of them. Each party represents that said counsel has advised them that pursuant to this Agreement each may be relinquishing substantial rights in the property of the other. Each party further represents that said counsel has advised each of them of the reasons why they might wish to retain separate counsel but that each has elected to retain [attorney] as their joint counsel.

The first entry on a billing statement from the attorney who drafted the agreement shows a "Conference with *client and Mary Steffes*," while the remaining entries refer to the parties, collectively, as "client*s*." (Emphasis added.)

¶3 Mary had completed two years of post-high school education, including some business classes, at the time she signed the prenuptial agreement. She had managed a restaurant, doing some bookkeeping in that capacity. She also had bookkeeping experience from another job. She was a lifelong resident of the Mineral Point area where her parents owned a farm.

¶4 The parties' "Antenuptial and Marital Property Agreement" included the following provision:

> Section 1.01: Financial Disclosure: Each party hereto affirms that such party has, in making this Agreement, disclosed to the other all such party's income and expenses, assets and liabilities, and each party further represents that he or she is satisfied that fair disclosure has been made. Each party expressly waives the right to information about the other's income and expenses, assets and liabilities beyond that already provided, and acknowledges that he or she enters into this Agreement with full knowledge of the financial affairs of the other.

The next two sections of the agreement address the "Property of the Prospective Husband" and "Prospective Wife." Each refers to an attached exhibit for a description of the respective party's property. As for the value of each party's property, the text of the agreement includes the following language: "he [or she] has a net worth of approximately $_____ ." Instead of values, however, the following is handwritten on the blank line following the dollar sign in each paragraph: "See exhibit #I [or II]."

¶5 "Exhibit One," entitled "Property of Prospective Husband" lists the following items: 7.5 acres of real estate with a mobile home, pole building and garage; three additional surveyed lots of approximately five acres each; several bank accounts; 326 shares of Wisconsin Power and Light stock; 248 shares of stock in another utility; a Wisconsin Retirement System account; an "inheritance"

consisting of a "coin collection, tools, sports equipment (canoe, Kayak)"; a 1946 airplane and a hangar at the Iowa County Airport; two antique cars; a newer (1982) car, a jeep, a truck and a "Suburban"; three Honda motorcycles; and two snowmobiles. Some but not all of the listed items are followed by a "$," but no values are included in the exhibit for any of the listed assets.

¶6 "Exhibit Two," "Property of Prospective Wife" lists a 1981 automobile and a "JD 116 Lawn Mower." Again, however, no values for these two items are shown. This exhibit contains a series of seven captions, each followed by a colon (e.g., "Personal Property:"; "Furniture:"; "Savings Account:"). Except for under "Automobiles:," no assets are listed under these captions.

¶7 The substantive provisions of the prenuptial agreement provide that all of the property owned by either party at the time of the marriage "shall be and remain, respectively, the separate property of each of them," including "any increase in the value of such property." In the event of divorce, the agreement recites that "[e]ach party shall receive all property titled in the party's name," his or her furniture brought to the marriage and one-half of the parties' remaining assets.

¶8 The parties divorced after thirteen years of marriage. At the time, John was fifty-three years old and remained employed as an engineer with the Wisconsin Department of Transportation. Mary, who was forty-eight, worked thirty-two hours per week as a hair stylist. The parties, who were both in good health and had no mental or physical disabilities, had two minor children. The parties agreed to joint custody and the court ordered primary placement of the children with Mary.

¶9 Mary challenged the prenuptial agreement on three grounds: John's inadequate financial disclosure at the time of the agreement; Mary's lack of separate counsel; and the agreement's substantive unfairness. John testified at trial that his assets at the time the agreement was signed were worth approximately $123,000. This amount included $4,500 in the five bank accounts listed in Exhibit One and a state retirement account having a value of about $7,500 at that time. Mary testified that she did not ask John for specific values of his assets at the time she signed the agreement. She also acknowledged that "it didn't really matter what he had when [they] got married" and that she "would have still signed and still gotten married to John" regardless of "whether … those assets were valued" or whether she "knew his income."

¶10 The trial court concluded the prenuptial agreement was invalid because, although John listed his assets, he provided no information to Mary regarding the value of those assets. The court found that Mary had not been fully informed of John's financial position at the time of the execution of the agreement in that she did not know his net worth or his monthly or annual earnings. The court also found that the asset list accompanying the prenuptial agreement included some assets the value of which Mary could not have ascertained without a disclosure by John. These included the "bank accounts, stocks, a retirement account, a coin collection, an airport hangar, antique cars, and an airplane."

¶11 When dividing their property, the court valued the parties' "marital estate" at $555,403, which included $127,513 for the value of John's state retirement account, but did not include property valued at $31,385 that the court awarded to John as his separate property acquired by gift. The court further found that John brought property to the marriage having a total value of $123,954, and that Mary's property brought to the marriage was "minimal." Although the court

did not give effect to the parties' prenuptial agreement, it deviated from an equal division of the parties' property in view of the imbalance in property brought to the marriage. It awarded 55% of John's state retirement fund account to him and 45% to Mary. The parties' remaining property was also divided on a 55/45 basis, with John receiving property having a net value, after a balancing payment, of $235,241, and Mary, a net of $192,649.

¶12 John appeals the property division ordered in the divorce judgment, claiming that the trial court erred by not giving effect to the parties' prenuptial agreement and by not awarding him a larger share of the parties' divisible property.

ANALYSIS

¶13 WISCONSIN STAT. § 767.255(3)[2] creates a presumption that the divisible property of a divorcing couple "is to be divided equally between the parties," but provides that a court may depart from an equal division after considering certain enumerated factors, one of which is the following:

> (L) Any written agreement made by the parties before or during the marriage concerning any arrangement for property distribution; such agreements shall be binding upon the court except that *no such agreement shall be binding where the terms of the agreement are inequitable as to either party.* The court shall presume any such agreement to be equitable as to both parties.

Section 767.255(3)(L) (emphasis added). When determining whether a given marital property agreement is "inequitable," the circuit court exercises its

[2] All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

discretion. *See* ***Button v. Button***, 131 Wis. 2d 84, 99, 388 N.W.2d 546 (1986).[3] We will therefore uphold the circuit court's determination if the "court considered the relevant law and facts and set forth a process of logical reasoning," arriving at "a reasoned and reasonable determination." ***Id***. We conclude the circuit court's decision to not give effect to the Delaney marital property agreement meets this standard.

¶14 The interpretation of a statute is a question of law that we decide de novo. *See* ***State v. Setagord***, 211 Wis. 2d 397, 405-06, 565 N.W.2d 506 (1997). As for the interpretation of "inequitable" in WIS. STAT. § 767.255(3)(L), the meaning of its opposite, "equitable," is "well settled":

> The law is well settled that a marital property agreement is equitable if it satisfies all of the following requirements:
>
> Procedural Fairness:
>
> 1. Each spouse made *fair and reasonable disclosure to the other of his or her financial status*;
>
> 2. Each spouse has entered into the agreement voluntarily and freely; and
>
> Substantive Fairness:
>
> 3. The substantive provisions of the MPA dividing the property upon divorce are fair to each party.

Gardner v. Gardner, 190 Wis. 2d 216, 229, 527 N.W.2d 701 (Ct. App. 1994) (emphasis added). If a given marital property agreement fails to meet any of these

[3] Although numbered differently, the wording of the statute discussed in ***Button*** is identical to the present WIS. STAT. § 767.255(3)(L). *See* ***Button v. Button***, 131 Wis. 2d 84, 87-88, 388 N.W.2d 546 (1986) (citing and discussing WIS. STAT. § 767.255(11) (1983-84)). The same statutory language was at issue in the ***Schumacher***, ***Greenwald*** and ***Gardner*** opinions, which we cite and discuss below.

three requirements, it is "inequitable." *See* ***Button***, 131 Wis. 2d at 99. The party who challenges the agreement bears the burden to produce evidence and persuade the circuit court of the agreement's procedural or substantive unfairness. ***Id***. at 93-94.

¶15 We are satisfied that, in reaching its determination whether to give the Delaney agreement effect, the circuit court applied the correct law as described above. In its written findings of fact, the court found that Mary had shown the agreement to be inequitable by establishing that John had failed to make a "fair and reasonable disclosure" to Mary of "his … financial status" at the time the agreement was executed. *See* ***Gardner***, 190 Wis. 2d at 229. The court concluded that, because John had failed to disclose the value of any of his assets, "there was not fair and reasonable financial disclosure at the time the parties executed their Prenuptial Agreement." The court expressly declined to make findings regarding the procedural "fairness of the parties relying on one attorney in the preparation of and execution of" the agreement, or regarding "the substantive fairness of the Prenuptial Agreement at the time of the divorce." These statements by the circuit court show that it understood and considered the three requirements the Delaney agreement needed to fulfill in order to be deemed "equitable" and binding on the court when dividing the Delaneys' property.

¶16 As for the circuit court's consideration of relevant facts, we have noted above its written finding that John did not disclose the value of his assets at the time the Delaneys executed the agreement. The court also found in its written findings that Mary "was not fully aware of [John]'s financial position at the time of her execution" of the agreement. In its ruling delivered from the bench, the court found that Mary "was not aware of the respondent's financial situation at that time," and that she "did not know what [John] was earning and had no idea of

the value of his assets." Further, the court found that Mary "was not told that she was entitled to have valuations disclosed," that she "was not particularly knowledgeable of financial matters," and that John told her the agreement would "only be in effect for seven years."

¶17 We are thus satisfied the circuit court applied the correct standard of law and examined the relevant facts, and we also conclude the court engaged in a process of reasoning and reached a conclusion a reasonable judge could reach. Accordingly, we must affirm its determination that the Delaney marital property agreement was inequitable for lack of a fair and reasonable disclosure of John's financial status at the time the agreement was signed. *See* ***Schumacher v. Schumacher***, 131 Wis. 2d 332, 337, 388 N.W.2d 912 (1986) ("We will sustain a discretionary act of the circuit court if the court examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.").

¶18 John argues, however, that we should conclude on the present record that Mary waived her right to any disclosures regarding John's assets beyond the listing of those assets, without values, on Exhibit One attached to the agreement. He asks us to conclude "that a party to a [marital property agreement] may waive specific disclosures of values of assets so long as the existence of the assets is made known by the other party." John points out that Mary has not challenged the fact that the asset listing on Exhibit One comprised "everything that John owned at that time," and he contends that Mary waived further disclosure by "the express terms of the agreement," an apparent reference to the waiver language in Section 1.01 of the agreement that we have quoted above.

¶19 We reject John's contention that a court is bound by boilerplate in a marital property agreement reciting that a party "expressly waives the right to information about the other's income and expenses, assets and liabilities beyond that already provided." Rather, ***Button*** makes clear that, even though a marital property agreement enjoys a statutory presumption that it is equitable, when a party challenges the agreement during a divorce, the court must independently determine whether the agreement satisfies the three elements of fairness cited above. If the court finds, as the circuit court did in this case, that, contrary to the recitations in the agreement, "fair disclosure" was not in fact made by the party wishing to effectuate the agreement and that the challenging party did not in fact possess "full knowledge of the financial affairs of the other," it may set aside the agreement for failing to satisfy the first requirement for procedural fairness. *See* ***Schumacher***, 131 Wis. 2d at 337-340 (affirming the circuit court's setting aside of an antenuptial agreement where the court found the parties "did not exchange lists of their assets and that neither had a 'complete and total picture' of the other's finances").

¶20 John next argues that we should uphold the Delaney marital property agreement because Mary had "sufficient independent knowledge" of John's assets to render the agreement enforceable. He claims that Mary could easily have determined the value of most of the assets John disclosed on Exhibit One. For example, he asserts that the value of John's publicly-traded utility stock would have been easily ascertainable, as would the assessed values of his real estate parcels. With respect to the assets whose values Mary could not have readily obtained, such as John's bank accounts, John contends that they were de minimis in comparison to the total value of his assets, and that we should, at a minimum, enforce the agreement with respect to the values that Mary could have readily

ascertained and invalidate it only regarding those assets for which she could not have obtained values.

¶21 A party's "independent knowledge" of the other party's financial affairs can be a substitute for disclosure. *See, e.g.*, ***Button***, 131 Wis. 2d at 95 ("Where it can be shown that a spouse had independent knowledge of the opposing spouse's financial status, this independent knowledge serves as a substitute for disclosure."); ***Greenwald v. Greenwald***, 154 Wis. 2d 767, 781, 454 N.W.2d 34 (Ct. App. 1990) (concluding that the disclosure requirement was satisfied where the prospective spouse kept the other's "financial records" and thus "was fairly and reasonably apprised" of the other's assets). We conclude, however, that the only "independent knowledge" that will suffice as disclosure for the present purposes must be *actual* knowledge of the other party's assets and finances, not some type of constructive knowledge based on the premise that the challenging spouse could have known or should have known the value of the other spouse's assets, which is what John argues here.

¶22 The supreme court made this very point in ***Schumacher***, explaining that "independent knowledge is not a general or imputed knowledge of the other's assets and their value." ***Schumacher***, 131 Wis. 2d at 338. The court concluded in ***Schumacher*** that, because the circuit court found that neither party in that case "had a 'complete and total picture' of the other's finances," the disclosure requirement was not satisfied, rendering the marital property agreement inequitable. ***Id.*** at 340. The court concluded its analysis by reiterating that "[o]nly actual knowledge of [assets and their values], which was not demonstrated, satisfies the disclosure requirement of ***Button***." ***Id***. We conclude that the ***Schumacher*** analysis controls on the present facts: even though Mary could perhaps have discovered the value of some of John's assets, because she did not

have actual knowledge of the asset values at the time she signed the agreement, the circuit court did not err in finding the agreement inequitable within the meaning of WIS. STAT. § 767.255(3)(L). *See* ***id***.

¶23 Our conclusion is that, because of the lack of reasonable disclosure of John's financial status, the waiver language in the Delaney marital property agreement cannot save it. This does not mean, however, that the language in question serves no purpose. The language alerts the parties that they are agreeing that each "is satisfied that fair disclosure has been made"; that each "expressly waives the right to information about the other's income and expenses, assets and liabilities beyond that already provided"; and that each enters "into [the a]greement with full knowledge of the financial affairs of the other." In so doing, the language (1) highlights the need for each party to freely and fully disclose the nature and extent of his or her assets, and (2) puts each on notice that, should he or she later wish to challenge the agreement, the challenging party will shoulder the burden of producing evidence and persuading a court that the recitations of full and fair disclosure are untrue.

¶24 John's final argument regarding the validity of the parties' prenuptial agreement is that it should be upheld as equitable because Mary testified that she would have married John even if she had been given a complete picture of his finances at the time she signed the agreement.[4] For support, John points to the alternate analyses we provided in ***Greenwald*** and ***Gardner***. As we have described, we concluded that the agreement in ***Greenwald*** was not inequitable for

[4] For example, Mary was asked by John's attorney, "[W]hether or not those assets were valued would have never made any difference; you would have still signed and still gotten married to John?," to which Mary answered "Yes."

lack of financial disclosure because the prospective wife kept her betrothed's books and was actually aware of his assets and finances. ***Greenwald***, 154 Wis. 2d at 781. We then went on to discuss "a separate ground … for affirming the trial court's determination even if a full and reasonable disclosure had not been made." ***Id***. The separate ground was the prospective wife's desire to marry "regardless of any agreement or its terms." ***Id***. at 782. We concluded as follows:

> If a party's conduct demonstrates that specific knowledge of the other's property and finances is not important to the marital decision, and if the agreement is otherwise freely and voluntarily made, we see no sound reason why the law should later intervene and undo the parties' contract. The trial court's finding reveals that such was the case here.

Id.

¶25 Similarly, we affirmed a circuit court's decision to uphold a marital property agreement in ***Gardner*** because the wife was specifically informed by her separate counsel before she signed the agreement of the difference between the book value and fair market value of the husband's closely held stock. We concluded that the wife could not therefore complain that the husband's disclosure of only book value was not fair and reasonable. ***Gardner***, 190 Wis. 2d at 231. We noted as well that the wife's attorney had made a "professional judgment" not to seek an independent appraisal of the husband's company and, further, that the wife ignored the attorney's advice that the agreement was "not in her best interest" and that she should not sign it. ***Id***. at 231-32. As in ***Greenwald***, however, we did not stop our analysis there. We went on to note that the circuit court found the "dollar value placed on the stock was of no significance" to the wife—that she "was determined to marry." ***Id.*** at 231. We then stated that the wife's "conduct demonstrates that specific knowledge of [the husband's] assets and finances was not an important component of her decision to marry William." ***Id***. at 232.

¶26 Although we cannot disavow what we said in ***Greenwald*** and ***Gardner***, *see* ***Cook v. Cook***, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997), we can place the portions of those opinions on which John relies in proper context. In each case, we concluded that the spouse who was claiming inadequate disclosure had actual knowledge of the other spouse's assets and finances sufficient to satisfy the requirement for "fair and reasonable" disclosure. In ***Greenwald***, the challenger acquired the knowledge from keeping the other party's books; in ***Gardner***, the knowledge came from independent legal and accounting advice regarding the meaning of the disclosed book value of the stock. In neither case did we say that a party's eagerness to marry, standing alone, permits a court to overlook a patently inadequate disclosure of assets and finances unaccompanied by actual independent knowledge of the missing information.

¶27 We note as well that the "ardor to marry" analysis is largely circular. As Mary points out, the question whether a marital property agreement should not be given effect because of the lack of fair and reasonable financial disclosure will only arise when a party has in fact signed an agreement and proceeded to marry. A party's election to sign and marry despite the alleged lack of fair and reasonable disclosure will thus be present in every case, and the other party will always be able to argue that the missing financial information was "not important to the marital decision." *See* ***Greenwald***, 154 Wis. 2d at 782. Moreover, determining the challenging party's degree of ardor to marry seems a far less precise and objective inquiry than examining what disclosures were made and what actual, independent knowledge the challenger may have had.

¶28 In short, we conclude the dispositive question should not be "would the party have married anyway?" (to which, as we have noted, the answer will invariably be yes). Rather, a court's primary concern should be "were the

financial disclosures that were made, or a party's independent knowledge of the other's assets and finances, sufficient to permit a conclusion that the challenger executed the agreement while possessing the information necessary to evaluate the fairness of its terms?" Neither ***Greenwald*** nor ***Gardner*** supports the proposition that a challenging party's eagerness to marry may substitute for the fair and reasonable disclosure of the other party's financial status where the challenging party lacks independent knowledge of the opposite party's financial status. A party's willingness to sign a marital property agreement and then marry despite the inadequacy of the disclosure *may* serve to fortify a decision to uphold an agreement where independent knowledge is present. Standing alone, however, a party's ardor for the altar cannot save a prenuptial property agreement when neither fair and reasonable financial disclosure nor independent knowledge of the other's financial status is present.

¶29 There is no question in this case that Mary did *not* possess actual independent knowledge of John's finances.[5] We affirm the circuit court's determination that the parties' prenuptial agreement should not be given effect for lack of procedural fairness.

¶30 John next argues that the circuit court erred in its "overall division of property." He contends that, even if the parties' marital property agreement is held not binding because of the lack of financial disclosure, the circuit court should nonetheless have considered its existence and, at the very least, granted more than a 55/45 imbalance in the property division based on the extent of the

[5] As we have noted, the trial court found in its bench ruling that Mary "was not aware of the respondent's financial situation at that time," and that she "did not know what [John] was earning and had no idea of the value of his assets."

property John brought to the marriage. Further, although John apparently concedes that the court was not required to treat $50,000 that his parents transferred to the parties to purchase their first residence as a repayable loan, he claims the court should have given this inter-family gift more weight in its overall determination of a fair division of the parties property. Thus, "even if the [marital property agreement] is not upheld," John asks that we reverse and remand so that the circuit court may consider "whether these additional reasons justify a more unequal division."

¶31 We first note that John's argument regarding the "overall property division" consumes barely one page of his opening brief and contains no citations to legal authority other than to the basic property division statute, WIS. STAT. § 767.255(3). Generally, we do not consider appellate arguments that are inadequately developed and unsupported by legal analysis and citations to authority. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (explaining that we may decline to review an issue inadequately briefed). We have nonetheless reviewed the circuit court's rationale for the property division it ordered. The court did, in fact, consider and give weight to the circumstances underlying the parties' prenuptial agreement—the fact that John brought considerable property to the marriage and Mary did not. The court ordered a 55/45 division instead of an equal division of the parties' property precisely for that reason. Thus, in the absence of a better-developed rationale as to why the court's overall property division constituted an erroneous exercise of discretion, we have been presented with no valid reason to set it aside.

¶32 Finally, John contends that the circuit court erred in the treatment of some of the parties' tangible personal property. Specifically, he complains that the court simply awarded Mary the personal property in her possession at the time of

trial, and that those items included some of his "boyhood prized possessions" having "tremendous sentimental value." In so doing, the circuit court, in John's view, failed to apply the statutory requirement that items gifted to a party be awarded to that party outside of and apart from the parties' divisible property. He asks us to remand and direct the circuit court to reallocate the personal property items. He also suggests methods the court might employ to manage the "laborious task of sorting through personal property issues" (e.g., by referring the dispute to an arbitrator).

¶33 We have reviewed the record to see what evidence was introduced regarding the tangible personal property items, what items John argued should be awarded to him and what the court ordered regarding the property in question. John submitted an exhibit, Exhibit No. 58, which listed tangible personal property in each party's possession and their appraised values. John made certain notations on the list to indicate items he believed should be awarded to him, items he claimed were gifts or property he brought to the marriage, and items that either belonged to others or that he wanted awarded to his children. He also provided testimony regarding some of these items. We agree with Mary, however, that much of this testimony was vague and some of it was confusing.

¶34 At the conclusion of the fourth day of trial on contested issues, the circuit court granted the parties a divorce and ruled from the bench regarding custody and placement of the children. As for argument on the issue of the tangible personal property, John's counsel told the court that "[t]here are many items that he wishes to receive that are in her possession and some of those, again, are premarital assets and I don't think there should be big issues." The court stated it would take the remaining issues under advisement and give an oral decision at a later date. Before adjourning, the court told the parties that, if the

parties wished to and were successful in resolving any of the personal property issues, they were welcome to do so and inform the court. The court made clear, however, that it would not order the parties to attempt to negotiate those items given the lengthy and contentious trial, stating its belief that the parties had "demonstrated, considering what I'm going home with, that these parties can't settle," and, further, that the court would not "come up with a judgment that requires these parties to sit down and sort things out because that will only generate more legal fees, more stress, more conflict and not serve a useful purpose."

¶35 Then, when the circuit court announced its ruling on the property division, it awarded "each party the property in that person's possession as of the date of the final hearing … and as I believe reflected in the … appraisal." When the court asked the parties if any contested issues remained to be addressed, John replied, "Yes. A large amount of the items in the house are still mine that I need to get." The court informed him that any items not in his possession were no longer "his" per its ruling. John then protested that he should have been allowed to retrieve those items, which he claimed included clothing and "items from my childhood." The court ended the colloquy by noting that the parties could have worked out the personal property items prior to the four-day trial in this "high-conflict case" and that it would not order them to attempt to do so now. Finally, the court noted that if there were indeed items in Mary's possession that she would likely not "make an issue about," John should prepare a list of items he desired and forward it to Mary's counsel. John responded to the court's suggestion by saying only that "this case is going to be appealed."

¶36 We cannot conclude the circuit court's handling of the tangible personal property items constituted an erroneous exercise of discretion. To the

extent that John claimed that certain items in Mary's possession were other than divisible property, it was his burden to produce evidence to that effect and to persuade the court that he was entitled to have the items in question. The fact that some items were "premarital," however, did not render them not divisible, and the court was also not required to award any items to the parties' children. The court's characterization of this being a "high-conflict case" was accurate, and we cannot fault it for awarding the personal property items to the party in possession after they had had ample opportunity to work out a different disposition.

CONCLUSION

¶37 For reasons stated above, we affirm the appealed judgment.

By the Court.—Judgment affirmed.

Not recommended for publication in the official reports.