Nontransferable personal goodwill excluded from value

Case name: Champion v. Champion
Citation: 54 Mass. App. Ct. 215, 764 N.E.2d 898, 2002 Mass. App. LEXIS 363
Date of decision: March 19, 2002
Country: US
State or Federal: State
State/Jurisdiction: Massachusetts
Court: Court of Appeals
Type of action: Marital Dissolution
Experts: John Minnehan, CPA (for wife)
Joe Horvitz (for husband)
Judge: Perretta
SIC: 4813 Telephone Communications, Except Radiotelephone (except resellers)

Telecommunications Business Valued Using Asset Approach

In *Joyce Champion v. Gary Champion*, No. 98-P-808 (Mass. App. March 19, 2002), the Massachu-setts Court of Appeals considered whether the lower court erred in its valuation of the husband's business. The husband operated a telecommunications sales and installation business as a sole proprietorship during the marriage. The trial court valued the business using the net asset approach proposed by the husband's expert appraiser. Using this method, the expert determined the value of the business by adding the business's tangible assets and accounts receivable and deducting the business's liabilities. He did not determine a value for goodwill because he opined, "any goodwill was personal to … [the husband] and could not be transferred." The husband appealed.

On appeal, the husband argued that the business should be valued at zero for the purposes of the marital dissolution. He argued "that because … [the business] was worth more to him as a stream of income rather than any amount for which he might have sold the business, he would not willingly sell … [the business] no matter the sale price it might fetch." He additionally argued that placing a value greater than zero on the business and basing the support order on the income he received from the business was an impermissible double counting of the asset.

The appellate court rejected the husband's arguments. It found that where a business does not have an ascertainable market value, it is appropriate to value the business based on its asset value or on the capitalization of earnings. Thus because the husband's expert valued the business using the net asset value, it was not clearly erroneous for the trial court to accept that valuation.

The appellate court then considered the husband's double dipping argument. It found that the business's value was not based on its future earnings even though its accounts receivables were treated as an asset. It noted that as current accounts receivables are converted into income they are replaced with new accounts receivables. Therefore the court concluded, "neither the value of the sole proprietor nor … [the husband's] ability to earn income is diminished by treating the business as a marital asset as well as a source of income by which … [the husband] can meet his support obligations." The court also noted that the husband's income was determined for support purposes based on his earnings history as reported to the IRS on his past three-years tax returns, and his future earnings from the business were not considered in arriving at the business's value.