

The Impact of Inheritances On Property Distribution In Connecticut Divorce Cases

By Robert M. Opotzner - Ridgefield and Danbury Attorney

The distribution of the assets and liabilities of the parties in a divorce case in Connecticut is governed by the principles of equitable distribution pursuant to C.G.S. Section 46b-81. Said statute lists approximately 14 factors that a court must consider in determining how the assets and liabilities of the parties should be allocated at the time of the entry of the judgment, regardless of which party holds legal title to such property. One of the factors that the court must consider is “...the contribution of each of the parties in the **acquisition, preservation or appreciation in value of their respective estates...**” (Bold lettering inserted)

One issue that frequently arises in this regard is how to handle the allocation of the assets of the parties when such assets include property inherited by one party or the other during their marriage. This issue was recently addressed by the Connecticut Appellate court in the case of **David W. Coleman vs. Susan Coleman** (151 Conn App. 613) (7/15/2014) [hereinafter referred to as the “**Coleman Case**”].

Some of the relevant facts in the **Coleman** Case were as follows:

1. The parties separated after 35 years of marriage and were married for approximately 37 years as of the date of the divorce judgment.
2. In 2007, the Husband received an inheritance of approximately \$1 million from his mother's estate;
3. After receipt of the inheritance, the principal of the inheritance was substantially diminished due to “... market conditions and investment choices...”, which resulted in the assets from the inheritance in the Husband's name, as of date of the divorce, being \$184,886.00 in a Morgan Stanley IRA account and \$592,627.00 in a separate Morgan Stanley account. (i.e - total remaining assets from the inheritance, all in the Husband's name, being \$777,513.00);
4. The Wife had also received an inheritance of \$119,000.00 from her family - but those funds had been substantially depleted;
5. Total assets at the time of the divorce being \$2,359,635.42 - per Husband's financial affidavit
6. In 2012 - income of Husband was \$185,000.00 +/-; the Court found that the wife had an earning capacity \$400.00 per week.
7. The equity of the family home was approximately \$260,000.00

The trial court in Danbury, CT. on 12/11/12 (Judge Axelrod), granted the Wife alimony of \$1,000.00 per week and ordered a transfer of the former marital residence to the Husband (subject to the Husband paying the Wife half of the equity of the former marital residence in the approximate amount of \$132,619.00). The Court order at the time of the judgment also included the following

“...an equal division of all bank accounts, brokerage accounts, and IRA accounts, including the two Morgan Stanley accounts holding the balance of the inheritances that the (Husband) had received from his mother... “ page #615.

The Husband filed an appeal of the trial court’s decision, with the sole issue on the appeal being whether the Court had abused its discretion, “...in awarding (the Wife) one half of the balance of the \$1 million inheritance received by the (Husband) during the marriage ...” (p. 614) . The Appellate Court affirmed Judge Axelrod’s trial court decision to stand which required that the remaining proceeds from the inheritance be split 50-50 between the parties.

The Husband’s argument against dividing the inherited assets between the parties on a 50-50 was that the inherited property should be segregated from the other assets that were being distributed, and should be retained solely by the Husband, who had inherited the property. Essentially, the Husband argued that since the Wife had no part in the “**...acquisition, preservation or appreciation...**” of the inherited property, she should receive **none of it**. The Appellate Court refused to accept that rationale, by stating in part that:

1. “...no single criteria is preferred over others and the court is accorded wide attitude in varying the weight placed upon each item under the peculiar circumstances of each case...” p. 617 (See **Lopiano vs. Lopiano** - 247 Conn. 356, 374-375 (1998).
2. “...the paramount purpose of a property division pursuant to a dissolution proceeding [which] is to unscramble existing marital property in order to give each spouse his or her equitable share at the time of dissolution...” p. 618 (citing from **Rozsa vs. Rozsa 117 Conn. App. 977 (2009)**);
3. “...we do not find any abuse of discretion by the Court in its award to the Defendant of an amount equal to one half of the Plaintiff’s remaining inheritance as part of its equitable distribution power under section 46b-81...” p. 618

The Appellate Court was not persuaded by the policy argument promulgated by the Husband, who had claimed that since he had inherited the money, it should be all his “...the Plaintiff urges this Court to conclude that when one spouse inherits from his or her family, the amount of that inheritance should be separated from other assets acquired during the course of the marriage and the Court, in treating an inherited asset, should place particular weight on the failure of the noninheriting spouse to contribute at all to the acquisition of the inheritance...” p. #619

The Appellate Court also **hurled a major “dis” to the Husband by also stating that:**

“...It is noteworthy that in making this argument, the Plaintiff would have this Court ignore his own lack of participation in the acquisition of this inherited asset...” p. 619.

The Appellate Court did not accept the Husband's attempt to have the court carve out a special exception for inheritances "... in light of the trial court's statutory obligation to consider the contribution of each of the parties to the acquisition, preservation, or appreciation of their estates..."

The Appellate Court further stated that if the Husband wished to have: "...inheritances to be given special consideration under section 46b-81, his argument should be made to the branch of government charged with enacting statutes and not to the branch faithfully applying the law..." p. 619

This Appellate Court decision puts parties who inherit assets during the marriage on notice that when it comes time to allocate the assets at the time of a divorce, the trial court will have the discretion as part of its equitable distribution to give less credit, or no credit, to the party who inherited assets for the amount inherited, than the inheriting party may deem appropriate.