IN THE COURT OF APPEALS OF IOWA

No. 0-22 / 89-306

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H. ROBERT ECKERT, Individually and as Shareholder of Dallas County Implement, Inc.,

Appellant/Cross-Appellee,

vs.

NEALE A. CLOYD and DALLAS COUNTY IMPLEMENT, INC.,

Appellees/Cross-Appellants.

FILED
MAR 27 1990
CLERK SUPREME COURT

SHIRLEY J. CLOYD,

Intervenor-Appellee/Cross-Appellant,

vs.

H. ROBERT ECKERT,

Defendant-Appellant/Cross-Appellee.

Appeal from the Iowa District Court for Dallas County, Darrell Goodhue, Judge.

H. Robert Eckert brought this shareholder's derivative suit claiming Neale A. Cloyd converted corporate property to his personal use. Neale filed a counterclaim for sums allegedly due him from the corporation. The court set off these various amounts and found Neale owed Robert $6,958. Robert appeals and Neale cross-appeals. **AFFIRMED.**

Marc S. Harding, Des Moines, for plaintiff-appellant.

Ralph R. Brown of McDonald, Brown & Kemple, Dallas Center, for defendants-appellees.

Heard by Hayden, P.J., and Sackett and Habhab, JJ.

PER CURIAM 89

H. Robert Eckert brought this shareholder's derivative suit claiming Neale A. Cloyd converted corporate property to his personal use. Cloyd filed a counterclaim for sums allegedly due him from the corporation. The court set off these various amounts and found Cloyd owed Eckert $6,958. Eckert now appeals and Cloyd cross-appeals.

Eckert claims: 1) Cloyd converted a tractor to his personal use; 2) Neale should be charged the purchase price of a personal computer; 3) the corporation should not have been charged for rental of some equipment owned by Cloyd's new company; 4) the court should have allowed punitive and exemplary damages against Neale; and 5) the court should have awarded him attorney fees.

In his cross-appeal Cloyd claims: 1) the court placed an excessive value on the computer; 2) the court should not have charged him for an antique tractor; 3) he should not have been charged for a rebate from John Deere; 4) Cloyd and his wife should have been compensated for services rendered to the corporation; and 5) all the costs of this proceeding should be assessed against Eckert. We affirm.

The trial court determined the matter was an accounting action and tried it as such. We agree. This is a division of assets of two fifty percent owner-shareholders. We accept the matter on appeal as an accounting and affirm the distributions made by the trial court.

The trial court correctly concluded Cloyd's conduct did not exhibit the complete disregard for Eckert's rights necessary to support a claim for punitive damages, and denied the claim. The cases cited by appellant to support the punitive damage claim are not persuasive in this action because they dealt with shareholder's derivative actions. Eckert has cited no authority for the imposition of punitive damages in an accounting.

The award of attorney's fees was also correctly denied. The supreme court has recently held attorney fees should not be awarded absent a statute or agreement specifically authorizing such an award. Weaver Construction Co. v. Heitland, 348 N.W.2d 230 (Iowa 1984).

AFFIRMED.