

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

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| Almaz Bahta,         | : |   |
| Plaintiff-Appellee,  | : |   |
| v.                   | : | No. 12AP-680<br>(C.P.C. No. 10DR-06-2561) |
| Yohannes H. Eqube,   | : | (REGULAR CALENDAR)                        |
| Defendant-Appellant. | : |   |

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D E C I S I O N

Rendered on March 29, 2013

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*Jeffery M. Blosser*, for appellee.

*Peter H. Riddell* and *Allen B. Aimar, Jr.*, for appellant.

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APPEAL from the Franklin County Court of Common Pleas,  
Division of Domestic Relations.

KLATT, P.J.

{¶ 1} Defendant-appellant, Yohannes H. Eqube, appeals a judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, granting a divorce to him and plaintiff-appellee, Almaz Bahta. For the following reasons, we affirm in part and reverse in part, and we remand for further consideration.

{¶ 2} Eqube and Bahta married on May 10, 1982. Bahta filed a complaint for divorce on June 11, 2010. Eqube responded with a counterclaim for divorce.

{¶ 3} After a trial, the trial court issued a judgment granting the parties a divorce, determining custody and child support for their minor child, and dividing their assets. In relevant part, the July 17, 2012 judgment awarded Bahta a 2000 Crown Victoria and "the Cab license currently in [Eqube's] name." (Judgment Entry/Decree of Divorce, at 6.)

{¶ 4} Eqube now appeals the July 17, 2012 judgment, and he assigns the following error:

The Trial Court erred in awarding Defendant-Appellant's cab license (Shamrock Taxi #325) and a 2000 Crown Victoria taxi to Plaintiff-Appellee as a division of marital property.

{¶ 5} By his assignment of error, Eqube first argues that the trial court could not award Bahta the taxicab owner's license that he holds because the City of Columbus ("City") restricts the transfer of such licenses. We agree.

{¶ 6} City ordinances prohibit the operation of any vehicle for the purpose of carrying passengers for consideration unless the owner of the vehicle has a taxicab owner's license that is not under suspension or revocation. Columbus City Codes 587.01. The City's Director of Public Safety issues taxicab owner's licenses under specified circumstances. Columbus City Codes 587.03. The recipient of such a license may not freely transfer the license to another person. Pursuant to Columbus City Codes 587.09, "[n]o taxicab license shall be transferred from one owner to another unless an application for transfer has been filed with the section of licenses and a hearing is held by the vehicle for hire license board, which may grant or deny the application." A transfer in violation of Columbus City Codes 587.09 is "ground[ ] for the suspension, revocation or permanent revocation of the taxicab owner's license." Columbus City Codes 587.99(d).

{¶ 7} In divorce proceedings, a trial court must divide the marital property equally or, if an equal division is inequitable, the court must divide the marital property equitably. R.C. 3105.171(C)(1); *Neville v. Neville*, 99 Ohio St.3d 275, 2003-Ohio-3624, ¶ 5. Thus, whether the trial court possessed the authority to allocate the taxicab owner's license to Bahta turns upon whether the license constitutes marital property. R.C. 3105.171(A)(3) defines marital property. In relevant part, marital property includes "[a]ll \* \* \* personal property that currently is owned by either or both of the spouses." R.C. 3105.171(A)(3)(i). Consequently, the taxicab owner's license constitutes marital property, and is subject to division, if it is Eqube's personal property.

{¶ 8} Only one Ohio case has considered whether a taxicab owner's license is personal property. In *Cincinnati Assn. of Indep. Taxicab Owners, Inc. v. Turner*, 1st Dist. No. C-77034 (Apr. 12, 1978), the court held:

The taxicab permits, issued by the City of Cincinnati incident to its regulation of the use of its streets, were mere licenses or privileges. They were not franchises, the granting of which would create property rights.

{¶ 9} This holding is consistent with the more voluminous Ohio precedent that addresses whether liquor permits qualify as the permit holder's personal property. According to well-settled Ohio law, liquor permits are mere licenses and create no contract or property right. *Salem v. Liquor Control Comm.*, 34 Ohio St.2d 244, 245 (1973); *Soloman v. Liquor Control Comm.*, 4 Ohio St.2d 31, 36 (1965); *Abraham v. Fioramonte*, 158 Ohio St. 213, 226-27 (1952); *Banc of Am. Strategic Solutions, Inc. v. Cooker Restaurant Corp.*, 10th Dist. No. 05AP-1126, 2006-Ohio-4567, ¶ 9; *Delfratte v. Ohio State Liquor Control Comm.*, 10th Dist. No. 03AP-848, 2004-Ohio-1143, ¶ 14; *Continental Sawmill Ltd. Partnership v. Italian Oven L.L.C.*, 10th Dist. No. 00AP-204 (Sept. 29, 2000). A "license" is a personal and temporary privilege, not a natural right, which the license holder enjoys only so long as he or she complies with the conditions and restrictions governing its continuance. *Salem* at 245. Because liquor permits are only licenses and state regulation prohibits the free transfer of such permits, courts will not enforce the transfer of a liquor permit outside the statutory scheme. *Banc of Am. Strategic Solutions, Inc.* at ¶ 9, quoting *Continental Sawmill Ltd. Partnership*.

{¶ 10} We find the precedent regarding liquor permits instructive here because the state's regulation of liquor establishments is similar to the City's regulation of taxicab operation. Both sets of regulation control the operation of a business through the requirement that the owner of the business obtain a license. Like the state regulatory scheme, the applicable City ordinances impair a license holder's ability to transfer the license in question. Under both regulatory frameworks, a license holder must obtain the consent of an administrative agency before he or she may transfer the license, and the administrative agency may exercise discretion in deciding whether to grant or withhold that consent. See R.C. 4303.29(A); Ohio Adm.Code 4301:1-1-14; Columbus City Codes 587.09. This type of limitation on transfer is what precludes a license from becoming the property of the license holder. *Abraham* at 226-27. Accordingly, based on *Cincinnati Assn. of Indep. Taxicab Owners, Inc.* and the liquor-permit precedent, we conclude that a

taxicab owner's license is not personal property subject to court distribution in divorce proceedings.<sup>1</sup>

{¶ 11} Eqube next argues that because the 2000 Crown Victoria is also subject to regulation, the trial court could not distribute it either. Although the state regulates the transfer of vehicle titles, it does not impair the vehicle owner's ability to transfer the vehicle or the title. Consequently, the 2000 Crown Victoria is personal property, and the trial court did not err in including it in the distribution of the parties' marital assets.

{¶ 12} As Eqube points out, the trial court could have viewed the significant asset in this case as the taxicab business, instead of designating the taxicab owner's license and 2000 Crown Victoria as two separate assets. After valuing the totality of the taxicab business (as opposed to separately valuing its discrete components), the trial court could have then awarded the business to Eqube and made a distributive award to Bahta to compensate her for her marital interest in the business. Such an arrangement would have allowed Eqube to continue his taxicab business while also achieving an equitable distribution of the parties' assets. While we do not disagree with Eqube, we cannot find that the trial court abused its discretion in its approach to this case. However, on remand, the trial court may wish to consider Eqube's argument.

{¶ 13} For the foregoing reasons, we sustain in part and overrule in part Eqube's sole assignment of error. The trial court erred in distributing the taxicab owner's license to Bahta, but not in allocating to her the 2000 Crown Victoria. Accordingly, we affirm in part and reverse in part the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations. We remand this matter to that court to determine whether, in light of this decision, the distribution of the parties' marital assets remains equal, or failing that, equitable.

*Judgment affirmed in part, reversed in part;  
cause remanded with instructions.*

CONNOR and DORRIAN, JJ., concur.

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<sup>1</sup> This conclusion moots Eqube's argument that Bahta did not present competent, credible evidence of the value of the taxicab owner's license. As the taxicab owner's license is not subject to distribution, the trial court did not need to value it.