

The Costly Corvette

Spouses Battle To Determine Value

by Lawrence Savell

It's probably not an exaggeration to say that many car collectors feel that their beloved vehicles are "priceless." However, there are times that the valuation of such an asset must be determined, such as for insurance purposes. Similarly, should a collector and his or her spouse unfortunately divorce, valuation of a collector car may also be necessary.

The valuation of a collector car may require the testimony of an expert witness. Unlike most other trial witnesses who are limited to stating facts, experts, once they are found to be qualified, may go beyond and offer opinions.

The determination of the value of a collector car was recently examined in *Mearns vs. Mearns*, decided on June 4, 1997 by the Court of Appeals of Arkansas.

According to the Court, Monid Burl Mearns, Jr. appealed from a decree of divorce. Among other points for reversal, Monid asserted that the Pope Chancery Court (the lower court) erred in awarding his former wife Joyce Coffman Mearns \$8,000 of the \$10,000 realized from the sale of the parties' 1961 Corvette. After Joyce allegedly left Monid and shortly before filing his petition for divorce, Monid had sold the Corvette for \$10,000. Before the petition for divorce, the couple had hoped the car would bring in as much as \$35,000. The lower court directed Monid to repurchase the 1961 Corvette; however, the buyer refused to reconvey the automobile. The court heard testimony as to the car's value and found it to be \$16,000. It awarded Joyce \$8,000 (one half of \$16,000) of the \$10,000 sale price.

Monid argued that the sale had been proper and that the lower court erred in dividing the proceeds disproportionately.

The Court of Appeals affirmed some of the lower court's rulings and reversed others. With regard to the Corvette, it found no error and affirmed the judgment below.

The Court observed that a court has discretion to determine whether an offset is appropriate when parties to a divorce expend marital property during the pendency of proceedings. The court may even intervene to defeat a fraudulent act by an estranged spouse before a petition for divorce is filed. Based on these considerations, the Court concluded that the lower court properly exercised its discretion in this case.

The Court then turned to Monid's argument that the lower court abused its discretion in qualifying (accepting as qualified) Joyce's expert witness who testified about the value of the Corvette. It concluded that Monid's argument had no merit. "Under Rule 702 of the Arkansas Rules of Evidence, the test for admissibility of expert testimony is whether specialized knowledge will aid the trier of fact in understanding the evidence or in determining a fact in issue...Whether to allow a witness to give expert testimony rests largely within the sound discretion of the trial court, and that determination will not be reversed absent an abuse of that discretion...Absolute expertise concerning a particular subject is not required to qualify a witness as an expert."

"Joyce's witness, John Rogerson, a serious collector and Corvette enthusiast for 26 years, had entered Corvettes that he owned in classic auto shows, was familiar with the market value of older Corvettes, and had actually driven the car in question. We find no abuse of discretion in allowing Mr. Rogerson to offer expert testimony."

The Court also rejected Monid's argument that the value of the Corvette

set by the lower court was clearly erroneous. Monid had recounted a number of minor mechanical defects, and had pointed to the testimony of his own expert witness who had appraised the value as between \$10,000 and \$12,000 as support for his contention that the lower court's finding was clearly against the preponderance of the evidence. The Court was not persuaded: "We will not reverse a chancellor's finding of fact unless the decision was clearly erroneous...There is certainly substantial evidence to support the chancellor's finding. Experts for both Monid and Joyce agreed that the value of the Corvette exceeded \$10,000, as did Monid himself, when he testified at the separation hearing. Moreover, it was undisputed that the Mearnses had hoped to get as much as \$35,000 out of the vehicle when they sold it. Joyce testified that there was over \$20,000 invested in the car, not counting the considerable number of hours Monid had spent refurbishing it. Finally, \$16,000 was within the range of values stated by expert testimony. We find that the court was not clearly erroneous when it found the value of the Corvette to be \$16,000."

Because at some point it may be necessary for you to establish the valuation of your beloved collector car, it makes sense to keep records of any prior valuations of it that may have been made, as well as of any post-purchase expenditures you have made to improve the vehicle.



Lawrence Savell is Counsel at the law firm Chadbourne & Parke LLP in New York City. This column provides general information and cannot substitute for consultation with an attorney. Additional background on this and prior "Old Cars in Law" articles can be found on-line at www.carcollector.com.