



IN THE COURT OF APPEALS OF IOWA

CHARLENE DUREN,)
)
Petitioner-Appellee,)
)
vs.)
)
JOHN B. DUREN,)
)
Respondent-Appellant.)

Filed March 22, 1979

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2-61751

Appeal from Mitchell District Court - L. E. Plummer, Judge.

Respondent appeals from property division effected by dissolution or marriage decree. AFFIRMED.

Jerry H. Folkers of Dunkelberg, McKinley & Folkers, Osage, Iowa, for appellant.

William Pappas of Mason City, Iowa, for appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

On this appeal, respondent John Duren challenges the property division effected by the decree dissolving his marriage to petitioner, Charlene Duran. John asserts the trial court erred in awarding Charlene property valued in excess of one-half the amount of the increase in the parties' net worth during their marriage. Pursuant to Iowa R. App. P. 4, our review is de novo and subject to the economic criteria developed in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968) and In re Marriage of Williams, 199 N.W.2d 339, 344 (Iowa 1972).

This was the second marriage for both John and Charlene (aged 40 and 47, respectively) and at the time of the trial they had been married about three and one-half years. Before their marriage John had acquired assets valued at approximately \$33,000 and Charlene had an automobile worth around \$1,250. About six months prior to their marriage, while living together, they purchased an acreage and a mobile home with funds supplied by both parties.

During their marriage both John and Charlene exerted substantial efforts toward the financial success of their various business undertakings. John was, both before and during the marriage, the proprietor of a Coop oil station located in Osage. After they were married, Charlene worked for John at the station and did not receive a salary. During the marriage the parties acquired "Charlie's Car Care Center" where Charlene also worked without salary until the decree of dissolution.

The increase in the parties' collective net worth during the period of their marriage, as reflected by the financial statements in the record on appeal, was slightly in excess of \$10,700. The trial court found that the increase in the value of net worth was not a fair measure by which to divide the parties' property in light of Charlene's efforts during the marriage, and awarded her assets valued in excess of \$12,000. While the issue presented for determination is difficult, we agree that the increase in net worth, as shown by the record, is not a reliable basis for apportioning the assets. This is because the going business awarded to respondent is valued only as to its book value. No consideration is given for its present and future value as a going business. We find that the trial court correctly concluded that Charlene's contribution during the marriage enhanced this value in addition to any positive effect it had upon the book value of the business. Based upon such considerations, the division of property effected by the trial court's decree does not appear inequitable. We do not disturb the decree.

AFFIRMED.