FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

KAREN L. CAMPBELL,)
Appellant,)
vs.)
G. DUANE CAMPBELL,)
Appellee.)

Filed February 28, 1978

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2-60048

Appeal from Union District Court - James E. Hughes, Judge.

Appeal by both parties from the property division decreed in dissolution of marriage action; husband appeals award of attorney fees to wife's attorney. - Affirmed as modified.

Arnold O. Kenyon II, of Kenyon Law Office, Creston, for Appellant.

Paul J. Boysen, Jr., of Camp, Harsh & Boysen, Creston, for Appellee.

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

PER CURIAM

Respondent Duane Campbell appeals and petitioner Karen Campbell cross-appeals the property settlement provisions of the dissolution decree. The decree awarded Karen a $30,000 lump sum property settlement payable in six equal annual installments of $5,000. The unpaid installments are not to bear interest except in the event of a default. Both parties attack the provisions of the lump sum award unfavorable to them. Duane also attacks the trial court's award of $400 in attorney's fees to Karen's attorney.

Our review is de novo. Rule 4, Rules of Appellate Procedure. In matters of property settlements we are guided by the criteria set forth in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968) as modified by In re Marriage of Williams, 199 N.W.2d 339, 345-46 (Iowa 1972). Precedents are of little value, and determinations of what is right depend upon the facts of each case. In re Marriage of Romig, 207 N.W.2d 780, 783 (Iowa 1973). While we give weight to the trial court's findings of fact, we are not bound by them. Rule 14(f)(7), R. App. P.

Duane's principal claim is the trial court's award of $30,000 to Karen as a lump sum property settlement is excessive in view of the fact the evidence shows she made no contribution to the farming operation. Karen contends the award is inadequate and that the installment provisions and lack of interest are inequitable and further, diminish the actual value of her share of the joint accumulation.

The Campbell's had been married almost ten years at the time the marriage was dissolved. Duane's principal occupation for the four years preceding the marriage and during the marriage itself was farming. The trial court found the net worth of the parties had been largely due to Duane's farming operation. Karen had worked outside the home the last five years of the marriage, the last two full time as a bookkeeper for an implement company.

The court found the parties kept a separate farm account from which all farming expenses were paid; Karen's earnings were not used in the farming operation itself. Karen was primarily responsible for the household work and caring for the parties' minor child as well as Duane's child from a previous marriage. She contributed her income toward the purchase of clothing, dentist bills and household

needs, all for the use and benefit of the family.

The trial court found the net worth of the Campbells to be over $130,000. Of this, Karen received as a set-off a $5000 certificate of deposit which she brought into the marriage. The testimony also showed that Duane owned a full line of farm machinery at the time of the marriage. However, the actual value of this premarital asset was never shown.

From a review of the evidence and our own application of the **Schantz** criteria, we are satisfied the lump sum property settlement was not excessive. In fact, we think the $30,000 award is inadequate. Accordingly, the lump sum award is increased $10,000 for a total of $40,000, payable as follows: $10,000 within sixty days after this decree becomes final and another $10,000 on or before December 31, 1978, with a like sum to be paid on the last day of December of each succeeding year until the sum is paid in full. The unpaid balance shall draw interest at the rate of 7% from the date this opinion becomes final.

The trial court did not err, as Duane argues, in considering the value of the unharvested crops in arriving at the total net worth of the parties. The trial court found the value of the crops to be $59,000 based on an average yield at the then prevailing market price. From that total, the trial court deducted the estimated cost of harvesting. It then found the growing crops to be worth $52,500. As the trial court took into account the liabilities associated with planting the crops when figuring the Campbell's net worth, it was justified in considering the nearly mature crops.

The final issue presented in this appeal is whether the trial court erred in awarding attorney fees of $400 to Karen's attorney. Duane contends the award of fees in this particular case was not supported by the evidence. The criteria for determining awards of attorney fees in a dissolution proceeding are found in In re Marriage of Jennerjohn, 203 N.W.2d 237 (Iowa 1972) and In re Marriage of Jayne, 200 N.W.2d 533 (Iowa 1972). Although testimony as to time spent and specific services rendered is helpful, a trial court can serve as its own expert, In re Marriage of McBee, 244 N.W.2d 327, 329 (Iowa 1976), especially where the entire financial picture of the parties is before the court. In re Marriage of Willcoxson,

250 N.W.2d 425, 427 (Iowa 1977). The trial court was in the best position to judge the services rendered and their value as they were performed before it. **Willcoxson,** supra. Each party shall pay his own attorney fees on appeal.

Affirmed as modified.

All judges concur except Oxberger, J., who dissents.

OXBERGER, J. (dissenting)

I dissent. The majority divides the $130,000 assets of the parties 70% to Duane and 30% to Karen. Karen, during the past 10 years, has helped raise Duane's son from his previous marriage. In addition to providing all the funds from her full-time job to the marriage, she did all the household work and most of the child rearing.

It is true, as the majority finds, that the source of most of the parties' net worth has been Duane's farming operation. However, the supreme court in In re Marriage of Kehrli, 241 N.W.2d 923, 926 (Iowa 1976) said: "While (the husband's) accomplishments may have been more financially productive this does not mean (the wife's) efforts as wife and mother were less important."

I would modify the decree in this case to conform to the supreme court's decision in In re Marriage of Abild, 243 N.W.2d 541 (Iowa 1976) where the wife's share of $125,000 assets was increased from 37% to 47%. I would also modify the trial court decree to set off to Duane the value of his assets at the time of the marriage, as shown by the evidence.