IN THE COURT OF APPEALS OF IOWA

No. 1999-449 (9-706) / 98-1796
Filed April 28, 2000

IN RE THE MARRIAGE OF JEAN E. COLLINS AND JOHN W. COLLINS

Upon the Petition of
JEAN E. COLLINS,
Petitioner-Appellant,

And Concerning
JOHN W. COLLINS,
Defendant-Appellee.

FILED
APR 2 8 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Calhoun County, Gary L. McMinimee, Judge.

Jean Collins appeals from the district court's order construing the 1989 decree dissolving her marriage to John Collins. She contends the trial court erred in not construing the decree to award her twenty-five percent of the pension benefit paid to John at the time he received his pension. **AFFIRMED.**

C. Joseph Coleman, Jr. of Coleman & Enke Law Offices, Fort Dodge, for appellant.

Colin McCullough of McCullough Law Firm, Sac City, for appellee.

Considered by Huitink, P.J., and Streit and Miller, JJ.

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MILLER, J.

Petitioner Jean Collins appeals a declaratory ruling construing the decree which dissolved the parties' marriage. We affirm.

The thirty-two year marriage of John and Jean Collins was dissolved in December 1989. At that time Jean was fifty-two years of age and John was fifty-six. In the dissolution decree, the trial court made the following findings of fact:

> Next June, John will have been employed with Hunt Truck Lines for about twenty-five years. ...
>
> During his employment with Hunt Truck Lines, John has obtained a vested pension with Central States Southeast and Southwest Area Pension Fund that is payable upon retirement. The amounts to be paid are not dependent upon further employment, but only upon his age at retirement; he can retire immediately. His right to benefits terminates upon death. If he had retired at age fifty-five, he would have received $647.50 per month; at age sixty and older, he would receive $900 per month.

The trial court, in making its property division, in relevant part ordered:

> Jean Collins shall have an interest in John Collins' pension with the Central States Southeast and Southwest Area Pension Fund. When John Collins qualifies for benefits under the plan, 25% of the benefits payable under the plan shall be paid to Jean Collins.

Neither party appealed the dissolution decree.

John continued to work and also made a substantial personal contribution to his pension account. Upon his recent retirement, he began receiving a pension benefit of $2,500.00 per month, or $1,600.00 more than the maximum anticipated by the parties and found by the trial court in 1989. The parties disagree on how much of the pension payments Jean should receive. Jean feels the decree entitles her to twenty-five percent of the $2,500, or $625 per month. John asserts the decree entitles her to only $225.00 per month, twenty-five

percent of the maximum anticipated by the parties and found by the trial court in 1989.

On April 20, 1998, Jean filed a Motion for Declaratory Ruling, asking the court to interpret the original dissolution decree and resolve the dispute. In its ruling on the motion, the trial court found

> [a]lthough this Court was apparently in error regarding John's capacity to increase his pension benefit by further employment and contribution, this Court's Decree implicitly dealt only with that portion of John's pension that was vested at the time of the Decree. The percentages may possibly have been different if this Court had been aware that John could have continued to earn benefits . . . but in dividing the parties' property, This Court would not have divided pension benefits that had not then yet been earned. Accordingly, the Decree should be construed to mean that "[w]hen John Collins qualifie[d] for benefits under the plan, 25 percent of the benefits payable under the plan [that had become vested at the time of the Decree] shall be paid to Jean Collins. . . Jean should receive $225 of John's monthly pension payment, which is the amount that this Court understood that Jean would receive if John delayed receiving his pension until he was 60 years of age.

Jean appeals from this ruling (as modified by a subsequent order, made on motion, to correct a factual error as to the amount of the monthly pension benefit.)

Jean states our review of the economic provisions of a dissolution of marriage decree is de novo, and her brief is largely devoted to arguing the decree provision concerning John's pension plan is inequitable. From this, John appears to reasonably assume Jean is challenging the terms of the 1989 decree. He asserts the standard of review is limited because this case does not involve review of economic provisions of the decree. He asserts we are "asked to review a declaratory judgment action seeking to modify an un-appealed decree some

nine years after its entry." He states a belief our review "is on the basis of errors" and the appeal should be dismissed.

The timing of Jean's appeal indicates she is appealing from the trial court's ruling on her motion for a declaratory ruling construing the December 1989 decree. Certain language in her brief can be seen as challenging the trial court's construction of the decree. We will review her appeal as doing so.

The underlying dissolution case is in equity, Jean appeals from a trial court declaratory judgment ruling construing the dissolution decree, and our review is thus de novo. Iowa Code § 598.3 (1997); Iowa R. App. P. 4; *QRS v. City of Spencer*, 586 N.W.2d 202, 205 (Iowa 1998).

A judgment or decree is to be construed like any other written instrument. *In re Marriage of Lawson*, 409 N.W.2d 181, 182 (Iowa 1987). The determinative factor is the intention of the court as gathered from all parts of the judgment. *Id.* In determining this intent, we take the decree by its four corners and try to ascertain from it the intent as disclosed by the various provisions of the decree. *In re Marriage of Romanelli*, 570 N.W.2d 761, 763 (Iowa 1997). "Effect must be given to that which is clearly implied as well as that which is expressed." *Lawson*, 409 N.W.2d at 182. In construing a judgment, force and effect should be given every word, if possible, to give the judgment as a whole a consistent, effective, and reasonable meaning. *Id.* at 182-83. When, as here, the same judge who issued the dissolution decree subsequently interprets the decree, we give great weight to that interpretation. *See Peters v. Peters*, 214 N.W.2d 151, 157 (Iowa 1974).

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contrary finding, however, we are bound by the district court's findings because they are supported by substantial evidence. Accordingly we affirm the district court.

AFFIRMED.