259

FILED
JUN 24 1977
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ROZALIA E. DOMOKOS and ZOLTAN DOMOKOS

Upon the Petition of	)	
ROZALIA E. DOMOKOS,	)	Filed June 24, 1977
Appellee,	)	
And Concerning	)	154
ZOLTAN DOMOKOS,	)	2-58639
Appellant.	)	

Appeal from the Scott District Court - Lowell D. Phelps, Judge.

Respondent appeals the provisions of a dissolution decree. - Affirmed.

Harold C. Lounsberry, of Davenport, for Appellant.

Norman M. Peterson, of Davenport, for Appellee.

Heard by Allbee, C.J., and Donielson, Snell, Oxberger and Carter,JJ.

PER CURIAM

Respondent, Zoltan Domokos, appeals the property settlement and the dissolution of marriage decree itself. Our review is de novo. While we give weight to the trial court's findings of fact, we are not bound by them. Rule 344(f)(7), Rules of Civil Procedure. Further, precedents are of little value and each case must be determined on its own peculiar circumstances. In re Marriage of Romig, 207 N.W.2d 780, 783 (Iowa 1973).

Respondent initially argues that petitioner's attorney certified that the issues were joined, that the statement was untrue and that this court should vitiate the decree. Petitioner filed her certificate of readiness for trial as provided by rule 181, R.C.P. Respondent then had seven days within which to file objections. Failure by respondent to file timely objections precludes our review as error is not preserved.

Conciliation may be waived by the court upon a showing of good cause provided, however, that it shall not be waived if either party objects. Section 598.16, The Code. However, the issue of objection to waiver of conciliation must be raised in the trial court and not for the first time on appeal. In re Marriage of Tucker, 213 N.W.2d 498, 500 (Iowa 1973). In the instant case, respondent neither objected to waiver of conciliation by an answer or through his attorney at the time of trial. Accordingly, his claim is untimely.

The grant or refusal of a continuance under rules 182 and 183, R.C.P., is a matter within the sound discretion of the trial judge. State v. Birkestrand, 239 N.W.2d 353, 361 (Iowa 1976). A motion for continuance must be filed without delay as soon as the grounds therefor become known. Rule 182(a), R.C.P. In the instant case, respondent's trial counsel did not file his motion for continuance until the time of trial. The trial court did not abuse its discretion in refusing to grant such motion. Further, respondent did not take advantage of rule 340(c),(d), R.C.P., which permits the appellant to file a statement of the evidence where no report of the proceedings at trial was made. Without knowing the contents and reasoning of the motion for continuance we are unable to determine whether there was in fact an abuse of discretion. See Best v. Yerkes, 247 Iowa 800, 810, 77 N.W.2d 23, 30 (1956).

Thereafter there was a hearing on the dissolution petition and respondent does not

argue to the contrary. His attack is that he was not personally present at the hearing and no record thereof was made. A written decree was entered which included limited findings of fact. Although a decree may in fact be a default even though not denominated as such, Kirby v. Holman, 238 Iowa 355, 25 N.W.2d 664, 674 (1947), this was a decision on the merits.

Respondent asserts that the decree is inequitable in the property settlement provisions. No record was made of the proceedings. We have been given no record to review and accordingly have no way of determining this matter.

The trial court had jurisdiction to enter its decree. Judgment is therefore affirmed.