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DEC 27 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF GARY K. HADLEY & BARBARA E. HADLEY

Upon the Petition of)

GARY K. HADLEY,)

Petitioner-Appellee,) Filed December 27, 1979

And Concerning)

BARBARA E. HADLEY,) 244
2-62451

Respondent-Appellant.)

Appeal from Jasper District Court - Van Wifvat, Judge.

Respondent-wife appeals property division provisions of dissolution decree. - Affirmed with modification.

Frank G. Wieslander, Altoona, for respondent-appellant.

Robert H. Laden of Hyland, Laden & Pearson, Des Moines, for petitioner-appellee.

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

Respondent-wife, Barbara E. Hadley, appeals property division provisions of decree dissolving her eight year marriage to petitioner, Gary K. Hadley. Affirmed with modification.

Initially, we must dispose of the jurisdictional question surrounding timeliness of this appeal. Respondent failed to file her notice of appeal within 30 days of original decree; however, she timely filed notice of appeal following entry of the trial court's supplemental decree. The supplemental decree was entered in accordance with an order incorporated in the original decree but did not change any substantive provisions of the original decree. When such a ruling or decree "provides for subsequent entry of a final order, the ruling itself is not a final judgment or decision." In re Marriage of McCreary, 276 N.W.2d 399, 400 (Iowa 1979). Consequently, the supplemental decree was the final judgment in this case; respondent's appeal was timely filed, and jurisdiction is vested in this court.

On the merits, respondent asserts the trial court's property division is inequitable. Our review is de novo. Iowa R. App. P. 4. We apply the criteria of Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), except fault, In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972). The parties accumulated numerous assets during their marriage including: 490 acres of farmland, farm machinery, livestock, grain, stocks, bonds, motor vehicles, and personal and household goods. The trial court found the parties' assets had a gross value of $750,000 and a net value of $350,000. We believe those assessments of value are within reasonable bounds of the evidence and therefore will be used in our review. See In re Bare's Marriage, 203 N.W.2d 551, 554 (Iowa 1973).

In its property division, the trial court awarded respondent her personal effects, all household goods except those specifically awarded petitioner, an automobile, and an $80,000 monetary award to be paid by petitioner over a three year period and to be secured by a junior lien on the parties' 300 acre farm. Petitioner was ordered to pay all debts of the parties and was awarded the couple's remaining assets, including farmland having a gross value of $484,000 and farming assets with a $160,000 gross value.

Petitioner received about $644,000 of the parties' $700,000 gross assets. Although he was ordered to assume the parties' approximately $350,000 of debts, which included about $18,000 in farm business debts and more than $300,000 in outstanding loans, and was ordered to pay an $80,000 cash settlement to respondent, we believe petitioner

received an excessive share of the couple's assets in view of the Schantz criteria. The parties, according to the trial court, came into the marriage with petitioner's net worth being $19,500 and respondent's at $8000. Both contributed to the acquisition of assets throughout the marriage. While respondent's actual labor on the farm was significantly less than petitioner's, she worked full-time and provided steady income for the parties. That income provided economic support and allowed petitioner to devote almost his full energy to the farm operation. Had respondent not provided a steady source of income, petitioner may have had to focus his efforts on an income-producing job. Additionally, the parties appear equally situated in other relevant Schantz factors such as age, health, standard of living, and relative needs. Therefore, an approximately equal distribution of the parties' assets is justified. See In re Marriage of Wahl, 246 N.W.2d 268, 271 (Iowa 1976). To achieve such a distribution, we modify the trial court decree by awarding respondent a cash award of $120,000 to be paid by petitioner in annual installments over the next ten years and one month. Respondent is granted a junior lien on petitioner's farm as security to the extent of the unpaid portions of the property division, and petitioner shall pay respondent interest, at nine percent per annum, on the unpaid balance. We remand this matter for entry of a decree in accordance with the provisions of this modification.

Affirmed as modified. Costs are taxed to petitioner.

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

DONIELSON, J. (dissenting)

I dissent. The majority's modification creates an inequitable property division. The increased payments and interest charges, when added to the regular mortgage payments due on the land, may force petitioner to sell the farm to satisfy his obligations. This type of harm from a burdensome award may and should be considered in achieving an equitable division. See In re Marriage of Andersen, 243 N.W.2d 562, 564 (Iowa 1976). The trial court's property division was equitable under the circumstances and should be affirmed without modification. See In re Marriage of Ralston, 242 N.W.2d 269, 271 (Iowa 1976).