FILED
FEB 2 2 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-662 / 89-597

IN RE THE MARRIAGE OF WILLIAM P. STEIN AND KATHARYN M. STEIN

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Upon the Petition of
WILLIAM P. STEIN,

Appellant,

And Concerning
KATHARYN M. STEIN,

Appellee.

Appeal from the Iowa District Court for Pottawattamie County, Paul H. Sulhoff, Judge.

Appellant appeals from the property provisions of a district court decree of dissolution. **AFFIRMED.**

Lloyd R. Bergantzel, Council Bluffs, for appellant.

Dean T. Jennings of McGinn, McGinn, and Jennings, Council Bluffs, and Troyce A. Wheeler, Council Bluffs, for appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

PER CURIAM 249

William and Katharyn Stein were married on January 17, 1959.

In February 1988, William filed a petition for dissolution of marriage. In September 1988, the case proceeded to trial.

At the trial, the parties presented a partial stipulation regarding the distribution of their real and personal property. The only dispute concerned the parties' homestead and surrounding acreage.

In May 1989, the district court filed its decree of dissolution of marriage. Concerning the disputed matters, Katharyn was awarded the homestead and four acres while William was awarded the remaining 38 acres. William was required to pay the balance of the loan on the homestead. William has filed this appeal.

I. Scope of Review. Our scope of review is de novo. Iowa R. App. P. 4. Although not bound by the trial court's determination of factual findings, we will give considerable weight to them, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7).

II. The Property Award. The criteria governing property division are now contained in Iowa Code section 589.21. The determination as to what constitutes an equitable property division cannot be reduced to precise mathematical formulas. The courts strive to make a just

and equitable award under the unique circumstances of each case. Among the factors to be considered are the parties' respective incomes, educations, and earning capacities; the length of the marriage; the contributions and sacrifices made by each toward the acquisition of the property during the marriage; the sources of the property; the respective parties' needs; their social position and living standards both before and during the marriage; their physical and mental health and life expectancies; the tax consequences to each party; and such other factors as may reasonably enter into any division. See In re Marriage of Wallace, 315 N.W.2d 827, 830 (Iowa App. 1981).

We affirm the trial court in all respects. Judgment is entered against William P. Stein and in favor of Katharyn M. Stein for the total amount of the contract payments she made on the homestead property since the date of trial. If the parties are unable to agree upon a sum certain, then the trial court shall make an appropriate determination upon evidence submitted and enter judgment accordingly.

III. Attorneys Fees. An award of attorney fees is not a matter of right, but rests within the court's discretion and the parties' financial positions. In re Marriage of Kern, 408 N.W.2d 387, 390 (Iowa App. 1987). We are to consider the needs of the party making the request, the ability of the other party to pay, and whether the

party making the request was obligated to defend the trial court's decision on appeal. In re Marriage of Hayne, 334 N.W.2d 347, 353 (Iowa App. 1983); In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa App. 1981).

We order William to pay $500 towards Katharyn's attorney fee on appeal. Costs of appeal are assessed against William.

AFFIRMED.