

FILED

OCT 07 1977

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF LeROY PETERS AND LEATRICE PETERS

UPON THE PETITION OF	)	
LeROY PETERS,	)	
Appellee,	)	Filed October 7, 1977
AND CONCERNING	)	
LEATRICE PETERS,	)	<u>281</u>
Appellant.	)	<u>2-59566</u>

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Appeal from Chickasaw District Court - Dennis D. Damsgaard, Judge.

Appeal from property division provisions of dissolution decree.

AFFIRMED.

Alfred A. Beardmore and Roger L. Sutton, of Charles City, counsel for appellant.

William L. Wegman, of New Hampton, and James M. Demro, of Nashua, counsel
for appellee.

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

DONIELSON, J.

Respondent-Leatrice Peters appeals the property settlement provisions of her dissolution decree, asserting that the trial court erred in directing the sale of the parties' entire assets, including the homestead and their interest in partnership property held with a third party. She also asserts that the trial court was not justified in charging her rent after the petitioner left the home.

The parties were married on April 17, 1954, and the petition for dissolution was filed on June 19, 1973. No children were born to these parties. An Order, Judgment and Decree was entered on January 24, 1975, at which time the trial court approved a property settlement stipulation and incorporated same in the decree. Thereafter, respondent refused to sign the stipulation and consequently, that part of the decree dealing with the property settlement was set aside.

On February 13, 1975, respondent filed a Petition to Modify Judgment, in which she asserted that, contrary to the statement in the Order, Judgment and Decree, no stipulation regarding property settlement had been entered into or approved by the parties. At the hearing on this petition, held on May 6, 1976, the primary area of contention regarding the division of the property was the value of the homestead owned by the parties.

In its Decree filed May 14, 1976, the district court stated, in pertinent part:

"With respect to the home owned by the parties, both parties had expert witnesses testify to the valuation of the property in addition to their own evaluations. The expert witnesses testified as to the value of the home and such testimony ranged from a low of \$33,000.00 to a high of \$65,000.00 or \$70,000.00. The opinions of the experts as to the actual cash value of the home varied approximately \$30,000.00, and the opinions of the parties varied approximately \$20,000.00. Under the state of the record the Court is unable, with any degree of accuracy, to determine the actual cash value of this home for the purpose of effecting a property settlement."

Our review in this matter is de novo. Rule 4, Rules of Appellate Procedure. Although we give weight to the trial court's findings of fact, we are not bound by them. Rule 14(f)(7), R. App. P. We are guided by the standards set forth in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968) and § 598.21, The Code, without regard to fault. In re Marriage of Williams, 199 N.W.2d 339, 344 (Iowa 1972).

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Upon a review of the entire record in this case, we decide that the trial court did not commit error in directing the sale of the parties' interest in partnership property and other assets, including the residence. Especially with regard to the home, we share the trial court's uncertainty as to its value for purposes of an equitable property division and agree with that court's disposition of this matter. The direction of sale of the residence and division of the proceeds therefrom will solve this dilemma much better than any arbitrary estimation would. See *In re Marriage of Willcoxson*, 250 N.W.2d 425, 427 (Iowa 1977); *In re Marriage of Dowie*, 215 N.W.2d 276, 277 (Iowa 1974); *In re Marriage of Wahl*, 246 N.W.2d 268, 271 (Iowa 1976).

We decide that respondent's final argument that the trial court was not justified in charging her rent while she occupied the residence after the separation is without merit. Consistent with its distributional scheme, the trial court equitably added that rent to the total assets of the parties for equal division. Finding no error, we affirm the judgment of the district court.

AFFIRMED.