FILED
FEB 5 1980
CLERK, SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF JOANN BE LIEU AND RONALD LEE BE LIEU, SR.

Upon the Petition of)
JOANN BE LIEU,) Filed February 5, 1980
Petitioner-Appellee,)
And Concerning)
RONALD LEE BE LIEU, SR.,) 357
Respondent-Appellant.) 2-63072

Appeal from Polk District Court - Dale S. Missildine, Judge.

Respondent appeals denial of declaratory judgment petition, alleging trial court improperly ruled his claim of promissory estoppel was not supported by the evidence. - Affirmed.

Roland D. Peddicord, Des Moines, for respondent-appellant.

Joann Be Lieu, De Witt, pro se.

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

PER CURIAM

Respondent, Ronald Lee Be Lieu, Sr., appeals denial of declaratory judgment petition, alleging trial court improperly ruled his claim of promissory estoppel was not supported by the evidence. We affirm.

The marriage of respondent and petitioner, Joann Be Lieu, was dissolved March 15, 1968. Custody of the couple's four children was awarded petitioner and respondent was ordered to pay $35 weekly for child support. Respondent instituted this action to obtain a declaratory judgment ruling petitioner was estopped from asserting any claim for back child support and holding certain real estate was exempt from judgment for accrued but unpaid child support. He appeals denial of his petition.

Because this declaratory judgment action is equitable in nature, our review is de novo. Davidson v. Van Lengen, 266 N.W.2d 436, 438 (Iowa 1978); Iowa R. App. P. 4. We give weight to the fact-findings of trial court, but are not bound by them. Davidson, 266 N.W.2d at 438; Iowa R. App. P. 14(f)(7).

The trial court concluded respondent failed to sustain his burden of proving by a preponderance of the evidence that the parties made an agreement relieving him of the child support obligation imposed by the dissolution decree. In its fact-findings the court said testimony of the parties on the purported agreement "is conflicting and the court, as the trier of fact, is of the considered opinion that the plaintiff (petitioner) is telling the truth."

We find the trial court properly concluded the elements of promissory estoppel, set forth in Johnson v. Pattison, 185 N.W.2d 790, 795 (Iowa 1971), were not proven by a preponderence of the evidence. Respondent's claim depended on the parties' testimony and the trial court's determination of witness credibility is entitled to weight. Iowa R. App. P. 14(f)(7). Our de novo review leads us to conclude respondent failed to establish the parties had a clear and definite oral agreement or that the equities entitled him to relief. See Merrifield v. Troutner, 269 N.W.2d 136, 138 (Iowa 1978).

We find respondent's assigned error without merit.

AFFIRMED.