FILED
AUG 06 1993
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-625 / 92-688

IN RE THE MARRIAGE OF ROSALIND BROWN AND LARRY BROWN

Upon the Petition of

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ROSALIND BROWN,

Appellant,

And Concerning

LARRY BROWN,

Appellee.

Appeal from the Iowa District Court for Mitchell County, John S. Mackey, Judge.

The wife appeals the district court's dissolution decree. **AFFIRMED.**

Philip L. Garland, Garner, for appellant.

Keith A. McKinley of Dunkelberg, McKinley & Folkers, Osage, for appellee.

Considered by Donielson, P.J., and Hayden and Habhab, JJ.

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DONIELSON, P.J.

Rosalind and Larry Brown were married in 1969. They have two children: Erin born in 1972, and Amy born in 1974. The parties separated in November of 1989.

Rosalind received an associate of arts degree in 1969 and recently obtained her bachelor's degree in elementary education. She is presently employed as a substitute teacher in the Osage school system. Rosalind has diabetes and she controls the disease with regular daily insulin injections. Since the parties' separation, Larry has given her $13,000 in voluntary support payments plus the use of a credit card and a gas credit card.

Larry is a high school graduate and attended junior college classes in agriculture. He farms approximately 750 to 800 acres with his brother and father. Larry and Rosalind own approximately 160 acres of this farmland. In 1985, Larry suffered a stroke. He is presently unable to use his right arm and he wears a brace on his right leg. He works as much as his physical disabilities will allow. Larry' net monthly income is $2152.59.

Erin, the parties' son, is a sophomore at Wartburg College. Since the separation, Larry has supported Erin. Erin has taken out school loans to meet college expenses. When he is not at school, Erin resides with Larry.

Amy is a senior in high school. Upon graduation, she plans to attend Northern Iowa Community College in Mason City. She will receive $414 per month in social

security benefits until her graduation from high school. At the time of trial, she had saved $7500 for her college expenses. Amy resides with Rosalind.

In May of 1991, Rosalind filed a petition for dissolution of marriage. In March of 1992, the district court entered its decree.

The court awarded one-half of the farmland the parties owned as co-tenants to Larry and one-half to Rosalind. The court utilized the valuation of the farmland reached by Larry's appraiser. The court also awarded Larry the value of the 1991 crop and set aside one-half of the property gifted to both parties by Larry's parents. To balance the property division, the court ordered Larry to pay $11,500 as a property settlement. The court also ordered Larry to pay Rosalind $250 per month as rehabilitative alimony until Rosalind earned $1000 per month or November 1, 1994, whichever came first.

In addition, the court ordered each party to share equally in all college expenses incurred by Erin and Amy. The court also ordered Larry to pay $3411.60 toward Rosalind's attorney fees and all of the court costs.

Rosalind now appeals from the economic provisions of the dissolution decree. She contends the district court erred in: (1) using the value of Larry's appraiser in the valuation of the parties' farmland; (2) setting aside from its property division gifts made by Larry's parents to Larry and requiring her to repay a loan from Larry's

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parents; (3) setting aside the 1991 crops to Larry; (4) ordering the parties' two children's college expenses to be split equally between the parties; and (5) failing to consider the monies one of the parties' children had set aside in ordering college expenses to be split equally.

In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

I. Property Valuation

Rosalind first contends the district court erred by failing to adopt the land valuation provided by her appraiser.

At trial, Larry presented the testimony of Peter Govern, an experienced real estate broker and Larry Torgerson, an investor in Worth County farmland. Govern testified he based his valuation on a comparison between the Brown farm and a similar farm four miles away, the Diedrich farm. In his calculations, Govern valued the Brown farm as one unit with a fair market value of $2,100.00 per acre for a total value of $336,000. He also

placed the rental value at $100.00 to $120.00 per acre for the farmland.

Torgerson testified he purchased the Diedrich farm for $1650.00 per acre at a public auction in 1991. He rents the Diedrich farm at $120.00 per acre currently. He also opined the top rental price for the Brown farm would be $120.00 per acre based upon his dealings in Worth County farmland.

Rosalind presented the testimony of Vernon Greder, an appraiser. Greder valued the farm in parcels, one parcel of farmland and one parcel for the building site. He obtained a combined value of $400,000 for the parcels and a rental price for the farmland of $130.00 per acre. He based his valuation on comparable properties located in Cerro Gordo and Hancock counties.

The district court found the comparable sales utilized by Govern to be more accurate than those used by Greder. It also found a rental price of $130.00 per acre to be $5.00 to $10.00 higher than the fair market rental rate of Worth County farmland. As a result the district court found the fair market value of the farm to be $336,000 with a reasonable rental price of $120.00 per acre.

The district court clearly took the testimony of both witnesses into account in making its findings. The valuation found by the district court was well within the permissible range of evidence and we are not inclined to

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disturb it on appeal. See In re Marriage of Weidemann, 402 N.W.2d 744, 748 (Iowa 1987).

II. Economic Distributions

Rosalind contends the district court erred in setting aside gifts made by Larry's parents to both parties entirely to Larry. In addition Rosalind argues the district court should not require her to repay a loan made by Larry's parents to both parties.

The record indicates the gifts of $19,000 for a down payment on the farm and $10,000 were made to both parties. The record also indicates Larry's parents made a loan of $10,000 to both parties and both parties are expected to repay the loan. The district court properly set aside one-half of the gift amounts to Larry and assessed one-half of the loan to each party.

Rosalind also contends the district court erred in setting aside the 1991 crops to Larry. The court also made Larry responsible for the loan against the crop in the amount of $48,340.00.

The partners to a marriage are entitled to a just and equitable share of the property accumulated through their joint efforts. In re Marriage of Russell, 473 N.W.2d 244, 246 (Iowa App. 1991). Iowa courts do not require an equal division or percentage distribution. Id. The determining factor is what is fair and equitable in each circumstance. Id.

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Rosalind did not contribute in any way to the production of the 1991 crops after the parties' separation in 1989. To award her half of the proceeds of the 1991 crop would give rise to an inequitable result. We affirm the economic distribution of the district court in its entirety.

III. Child Support

Rosalind next contends the district court erred in assessing Rosalind's child support obligation. Specifically, Rosalind argues the district court should not have ordered all college expenses to be shared equally by the parties.

This court has determined that the child support guidelines "are not applicable to determine support for an unmarried adult child under twenty-two years of age who is a student." In re Marriage of Linberg, 462 N.W.2d 698, 701 (Iowa App 1990). Rather, the support is determined by Iowa Code section 598.1(6) (1993). This section was enacted to protect children whose parents divorce because of the greater likelihood that the children would be denied support for a college education by the noncustodial parent. In re Marriage of Vrban, 293, N.W.2d 198, 202 (Iowa 1980); In re Marriage of Baker, 485 N.W.2d 860, 862 (Iowa App. 1992). The duty to provide support for college students extends to both divorced parents. In re Marriage of Byall, 353 N.W.2d 103, 107 (Iowa App. 1984).

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Section 598.1(6) gives the court discretion to award support depending on the financial position of the parent, the ability of the child for college work, the age of the child, and whether or not the child is self-sustaining. See In re Marriage of Vrban, 293 N.W.2d at 202. We determine, after reviewing the particular circumstances of this case, that the record supports equal financial support from both parents and affirm the award of the district court.

Finally Rosalind argues the district court should have ordered no monies due for college until the money set aside by the daughter, Amy, was expended.

The amount set aside by Amy in savings was not a contribution made by either parent. It is inequitable to Amy to credit this amount to either parties' obligation to pay for her college expenses. The district court properly excluded this amount from its determination that both parties should provide equally for their children's college expenses.

For the reasons stated, the judgment of the district court is affirmed.

AFFIRMED.