FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF HELEN L. ISENBERGER AND GERALD R. ISENBERGER

Upon the Petition of	)	147
HELEN L. ISENBERGER,	)	
Petitioner-Appellee,	)	
And Concerning	)	6-416 86-588
GERALD R. ISENBERGER,	)	
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Winneshiek County (DM 759) - L. John Degnan, Judge.

Respondent husband appeals the decree dissolving the parties' marriage. **AFFIRMED AS MODIFIED.**

Andrew P. Nelson of Meyer, Lorentzen & Nelson, Decorah, Iowa, for appellant.

Marion L. Beatty of Miller, Pearson, Gloe, Burns, Beatty & Cowie, Decorah, Iowa, for appellee.

Considered by Oxberger, C.J., Snell, and Schlegel, JJ.

SCHLEGEL, J.

Respondent husband appeals the decree dissolving the parties' marriage. We affirm as modified.

Petitioner Helen Isenberger and respondent Gerald Isenberger were married in 1969. It was each party's second marriage. No children were born of the marriage. At the time of the trial, Helen was 62 years old and Gerald was 70. Helen has a bachelor's of science and master's degree from the Julliard School of Music. She has been a college voice instructor, and now follows that career on a part-time basis. Gerald is a retired postal worker.

In its dissolution decree, the trial court awarded Helen a car; some household goods; five lots, including the one on which the parties built their "new" house; her insurance policies; her bank accounts; her CD's; and her IRA. The trial court awarded Gerald two cars; some household goods; three lots, including the one on which the parties' "old" house is located; his insurance policies; his bank accounts and cash; his CD's; his savings bond; his IRA; his annuity; his civil service benefits; and his social security benefits. The trial court directed each party to pay half of a fuel oil bill for the parties' "old house" during a period of time Gerald was not living there. The trial court directed Gerald to pay alimony of $50 per week until Helen's 68th birthday and $1,500 toward Helen's attorney fees.

Gerald has appealed the dissolution decree. He asserts that (1) the property division is inequitable in various respects; (2) the trial court should not have awarded petitioner wife any alimony; and (3) the trial court should not have awarded petitioner wife any attorney fees. Petitioner wife requests attorney fees on appeal.

Our standard of review is de novo. Iowa R. App. P. 4. We review the facts and the law and determine anew the rights of the parties based upon credible

evidence where issues have been properly presented and preserved. In re Marriage of Phipps, 379 N.W.2d 26, 27 (Iowa Ct. App. 1985). Although we give weight to the findings of the trial court, especially concerning the credibility of the witnesses, we are not bound by them. In re Marriage of Bornstein, 359 N.W.2d 500, 502 (Iowa Ct. App. 1984); Iowa R. App. P. 14(f)(17).

We first address Gerald's contention the trial court erred in awarding the petitioner the "new" home, and all of her certificates of deposit, savings, and individual retirement accounts. We consider the factors enumerated in Iowa Code section 598.21(1) (1985) in evaluating the equitable distribution of the marital assets. The crucial inquiry is whether the trial court's distribution of property is equitable given the circumstances of the case. In re Marriage of Wallace, 315 N.W.2d 827, 830 (Iowa Ct. App. 1980). Each marital partner is entitled to a just and equitable share of the property accumulated as a result of their joint effort. In re Marriage of Hitchcock, 309 N.W.2d 432, 437 (Iowa 1981). A percentage division of the property is not required. In re Marriage of Burnstein, 359 N.W.2d 500, 503 (Iowa Ct. App. 1984). Furthermore, we recognize that all economic aspects of the divorce decree must be viewed as an integrated whole. In re Marriage of McFarland, 239 N.W.2d 175, 179 (Iowa 1976).

Viewing the facts before us in light of section 598.21(1), we conclude that the trial court's distribution of the property was equitable. We cannot agree with Gerald's argument that the "new" home should be his because he made substantial contributions to the development of the real estate. Helen also contributed to the new house. In 1969, she invested $5,000 in the property when she bought back the entire nine acres at a sheriff's sale. Gerald had let this property go through a sheriff's sale to satisfy a lien placed against it by his former wife. The "old" home and the subsequent "new" home are located on this property. During the time Gerald worked on the "new" house, Helen

maintained the household, did odd jobs, and performed some of the finishing work on the "new" house. The "new" house is easier to maintain and easier for Helen to maneuver in. The trial court acted equitably in giving the "new" house to Helen and the "old" house to Gerald.

Gerald also contends that the trial court should have more equally divided the parties' investments, specifically Helen's certificates of deposit, savings, and individual retirement accounts. Again, we note that a percentage division of the property is not required. In re Marriage of Bornstein, 359 N.W.2d at 503. Furthermore, some of Helen's assets were inherited by her or brought into the marriage. Iowa Code section 598.21(2) provides that such property may be considered not to be subject to property division. We conclude that the trial court, after weighing all the evidence, equitably divided the property.

Gerald next asserts that the trial court erred in awarding alimony to Helen of $50 per week until Helen's death, remarriage, cohabitation, or upon her 68th birthday. We agree with Gerald that Helen should not be awarded alimony. In considering the fairness of the alimony provision, we consider the factors listed in Iowa Code section 598.21(3) (1985). In doing so, we find no reason for an award of alimony to Helen. The record shows that Helen is going to be able to maintain a standard of living fairly comparable to that enjoyed during marriage even in the absence of any alimony payment. Helen was able to save a substantial amount of money during her 16-year marriage. The property division was equitable; she still earns money from her part-time teaching position; she has interest income; and she will be receiving both social security and TIAA benefits at the age of 65. Her present monthly income is approximately $1,500 per month. Gerald's present monthly income is approximately $ 1,200 per month. Helen still teaches and gives private lessons. Gerald is retired and living on a fixed income. Both parties' expenses are approximately the same.

Helen is highly educated and has worked throughout the marriage, hence there is no need to provide alimony for "rehabilitative" purposes. Although Helen made significant contributions toward the household, she did not sacrifice her earning ability to do so. In light of the foregoing, we can see no equitable reason to award alimony payments to Helen. Consequently, the decree of the trial court is modified so as to eliminate the award of alimony to Helen.

Gerald next argues the trial court erred in ordering him to pay one-half of the oil bill. The oil was used by Helen during the time Gerald was enjoined from entering the house. Adjudicating property rights in a dissolution action involves a division between the parties of both their assets and liabilities. In re Marriage of Orgren, 375 N.W.2d 710, 713-14 (Iowa Ct. App. 1985). We find no error in the trial court's assessment of one-half the fuel oil debt to each party. The house and the contents therein were joint property until the marriage was dissolved. Both parties had an interest in maintaining the property until the assets were divided.

Gerald finally contends the trial court erred in ordering him to pay $1,500 towards Helen's attorney fees. Attorney fees are not a matter of right but rest within the court's discretion and depend upon one spouse's financial needs and the other spouse's ability to satisfy them. In re Marriage of Estlund, 344 N.W.2d 276, 281 (Iowa Ct. App. 1983). We find nothing in the record to suggest that the trial court abused its discretion in its determination that Gerald pay $1,500 towards the $3,401 attorney fees incurred by Helen. The award is reasonable and is affirmed.

In evaluating a request for attorney fees on appeal, we consider the needs of the party making the request and the ability of the other party to pay. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa Ct. App. 1981). We order the parties to pay their own attorney fees on appeal.

One loose end remains in this matter. Although Helen has traded in the 1976 Oldsmobile, Gerald has refused to endorse the title. The issue was raised in the trial court and argued on appeal. The trial court found no inequity in the division of the automobiles. Therefore, we must conclude that Gerald has the obligation to endorse the title so that the equitable division of the automobiles may be completed. If Gerald has not already done so, he is ordered to endorse the title within 30 days of the filing of this opinion.

AFFIRMED AS MODIFIED.