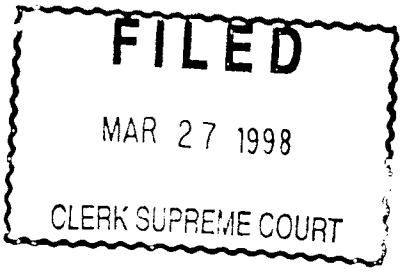
IN THE COURT OF APPEALS OF IOWA

No. 7-772 / 97-495

000083

IN RE THE MARRIAGE OF SARAH DEJONG AND MONTY RAY DEJONG



Upon the Petition of
SARAH DEJONG,
Appellant,

And Concerning
MONTY RAY DEJONG,
Appellee.

Appeal from the Iowa District Court for Poweshiek County, Richard J. Vogel, Judge.

Sarah DeJong appeals from a district court order enforcing a stipulation in the parties' dissolution decree regarding division of the parties' farmland. **AFFIRMED.**

David D. Dixon of Heslinga, Heslinga, Dixon & Smith, Oskaloosa, for appellant.

Michael W. Mahaffey and Rachelle L.K. Johnson of Mahaffey Law Office, Montezuma, for appellee.

Considered by Cady, C.J., and Huitink, and Mahan, JJ.

CADY, C.J.

Sarah and Monty DeJong's marriage was dissolved on February 5, 1996. The decree of dissolution approved, adopted, and incorporated the written stipulation of the parties concerning division of marital assets. The court also expressly found the terms of the stipulation "fair, reasonable and just as to both parties." Included in the stipulation was the following division of farmland: "the north one-half of the farmland owned by the parties shall be awarded to petitioner and the south one-half of such farmland shall be awarded to respondent." In a cover letter to petitioner's counsel on January 26, 1996, which accompanied the signed stipulation, the respondent's counsel stated:

> Concerning the farmland, my client is willing to take the south two government lots, which are approximately 87 acres with your client receiving the north two government lots. Your client will receive approximately 13 acres more than my client but it is really the best way to divide things up. There should either be a specific listing of the real estate in the decree or quit claim deeds should be done so that transfer can be shown of record.

The record does not reveal any written response from petitioner's counsel nor any change in the written stipulation terms to reflect this proposed division of land. The petitioner did testify at the hearing in this matter that she accepted the proposal.

After the dissolution, the petitioner quit claimed the two south government lots to the respondent and he quit claimed the north two government lots to her. The petitioner had the property surveyed and erected a fence. The survey revealed the

south lots contained only approximately 79 acres instead of 87 acres. The north lots contained approximately 119 acres.

The respondent filed this action seeking to have the court enforce the terms of the decree and divide the property equally between the parties. After a hearing, the court enforced the terms of the decree, finding the proposed division in the letter "was not made a part of the decree nor the stipulation of the parties and is of no force or effect." The petitioner appeals. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court rule 9.

The petitioner argues the parties had reached an accord and satisfaction which substituted for the agreement of the parties in the stipulation adopted by the court. She asserts the actions of the parties after the decree demonstrate they were following the "original agreement, effectively supplanting the terms of the decree with the terms of the January 25, 1996 agreement." The respondent denies any accord and satisfaction was reached and argues even if this court finds an accord and satisfaction, it is invalid because of a mutual mistake.

We review equitable cases de novo. Iowa R. App. P. 4. In a dissolution action Iowa Code section 598.21(1)(k) allows the court to consider "any written agreement made by the parties concerning property distribution" in devising an equitable property distribution. A stipulation of settlement in a dissolution proceeding is a contract between the parties. *In re Marriage of Lawson*, 409 N.W.2d 181, 183 (Iowa 1987). A stipulation becomes final when accepted and approved by the court. *In re*

Marriage of Gordon, 540 N.W.2d 289, 291 (Iowa App. 1995); *In re Marriage of Bries*, 499 N.W.2d 319, 321 (Iowa App.1993). Once the stipulation is merged in the dissolution decree, "it is interpreted and enforced as a final judgment of the court, not as a separate contract between the parties." *Prochelo v. Prochelo*, 346 N.W.2d 527, 530 (Iowa 1984). We do not consider the intentions of the parties which are not expressed in the decree. *See id.* at 529 (finding it inappropriate to consider the private intentions of the parties).

The petitioner presented the court with a stipulation signed by both parties. The court found it fair and just and adopted and incorporated it into its decree. We recognize the respondent offered a different division of the farmland by letter, but the stipulation was not changed nor did the court agree to the proposal. The decree is the final judgment of the court, not the proposed agreement in the letter. The private intentions of the parties and their actions subsequent to the decree do not change the decree. The district court correctly enforced the decree of dissolution.

AFFIRMED.