IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 5-562 / 94-1697

IN RE THE MARRIAGE OF DONNA M. TIFFANY AND JOHN F. TIFFANY

Upon the Petition of
DONNA M. TIFFANY,

Appellee.

And Concerning
JOHN F. TIFFANY,

Appellant.

Appeal from the Iowa District Court for Greene County, Peter A. Keller, Judge.

John F. Tiffany appeals the property distribution provisions of the parties' dissolution decree. **AFFIRMED.**

Michael W. Fay, Cedar Rapids, for appellant.

John C. Powell of Shirley, Powell & Finneseth, Perry, for appellee.

Considered by Habhab, P.J., and Cady and Huitink, JJ.

PER CURIAM

This is an appeal by respondent claiming the property division in the parties' dissolution decree was inequitable to him. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Donna and John Tiffany were married in 1951. A dissolution decree was entered for the parties on September 15, 1994. The court ordered John to pay Donna alimony of $200 per month. The court also awarded each party one-half of the following assets: (1) eleven acres of land with a farm house; (2) eighty acres of farmland; (3) 107 acres of farmland; and (4) farm equipment. John has appealed.

Our review of this equitable action is de novo. Iowa R. App. P. 4. We are not bound by the district court's findings of fact, but we do give them deference because the district court had an opportunity to view, firsthand, the demeanor of the witnesses when testifying. *In re Marriage of Brown,* 487 N.W.2d 331, 332 (Iowa 1992).

John claims the property division was not equitable because the court did not consider Donna's inheritance. He also claims that the two farms which were divided in the dissolution decree were not actually owned by the parties.

Under Iowa Code section 598.21(2) (1993), property inherited by a party during a marriage is considered the property of that party and is not subject to property division unless a refusal to divide the property is inequitable. Under the

facts of this case, we conclude it was equitable to set Donna's inheritance aside to her.

The issue of whether the parties owned the two farms in question is one of credibility. Obviously, the district court did not believe John's testimony that the parties had no interest in these farms. John admitted the farms were owned by corporations, the First Farlin Company and the Federal Land Bank of Omaha, in which he had an interest at one time. He also admitted mail for these corporations was sent to his address in Iowa. Four of the parties' six children operated the two farms.

As noted above, the district court had an opportunity to view the parties and was in a better position to determine credibility. We agree with the district court's conclusion that the two farms in question were owned by the parties and should be considered marital assets. We find the division of assets was equitable under the facts of this case.

After considering all issues raised in this appeal, we affirm the dissolution decree entered by the district court. We also affirm the award of alimony to Donna. Costs of this appeal are assessed to John.

AFFIRMED.