FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

PAMELA K. FREYERMUTH,)
Appellee,) Filed December 21, 1978
vs.)
EDWIN D. FREYERMUTH, II,) 716
Appellant.) 2-61086

Appeal from Muscatine District Court - Max R. Werling, Judge.

Petitioner and respondent both appeal economic provisions of decree urging improper consideration of parties' net worth. Affirmed.

Patrick Ryan and John G. Linn, of Eckhardt, Goedken, Hintermeister & Ryan, Muscatine, for Appellant.

J. W. Conway, Muscatine, for Appellee.

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

PER CURIAM

In this appeal, petitioner Pamela Freyermuth and respondent Edwin Freyermuth both contend that the economic provisions of their divorce decree are inequitable. The central issue is whether or not trial court properly considered the net worth of the parties in arriving at a property settlement. We affirm.

At the time of trial, Pamela and Edwin had been married for 4 1/2 years and had two children. Neither contributed substantial assets to the marriage. Several months prior to the filing of the divorce petition, Edwin's mother and grandmother were fatally injured in an automobile accident leaving Edwin and his sister as the only heirs. Taking into consideration Edwin's inheritance, trial court calculated the net worth of the parties to be $208,242. Pamela was awarded custody of the children, $100 per week child support, $75 per week temporary alimony, household goods, an automobile and a lump sum of $20,000. She argues that she should have received $103,000 plus one third of whatever amount Edwin recovers in a pending wrongful death action. Edwin contends that Pamela is not entitled to share in his inheritance, and therefore, the $20,000 judgment in her favor should be cancelled.

In our de novo review of this case, we apply the criteria enumerated in Shantz v. Shantz, 163 N.W.2d 398, 405 (Iowa 1968), except fault. In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972). Edwin concedes that inherited property can be considered in computing the net worth of the parties. Nevertheless, he argues that since the inheritance occurred after the marriage had broken down, Pamela is not entitled to any of the inherited property. We find the following language from Locke v. Locke, 246 N.W.2d 246, 252 (Iowa 1976) to be controlling:

> [R]espondent's position would require a judicial determination of the exact date of the marital breakdown, an impossible task in most, if not all, dissolution cases. It would appear the date of the trial is the only reasonable time at which an assessment of the parties' net worth should be undertaken.

It should be noted further that Pamela was not awarded any of Edwin's inherited property which consisted almost entirely of farm land but instead was granted a lump sum amount of $20,000.

In view of the short duration of the marriage and the circumstances surrounding the inheritance, we cannot accept Pamela's argument that she should have received $103,000 plus one third of whatever is recovered in the wrongful

death suit. We agree with the trial court that since "the parties have not possessed the property in fact or in vested expectancy over a period of years during which they may have adjusted their family budgetary procedures," the property division urged by Pamela is unwarranted. We affirm the trial court's decree.

Considerable discretion is vested in trial court in the award of trial attorney fees. In re Marriage of Loehmiller, 229 N.W.2d 228, 229 (Iowa 1975). We affirm that award. While we do not fix the amount to be charged by Pamela's attorney on appeal, we hold that Edwin should contribute $1000 toward that amount. In re Marriage of Guyer, 238 N.W.2d 794, 797 (Iowa 1976). Costs on appeal are taxed to Edwin.

AFFIRMED.