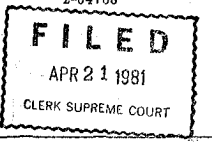
IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF LAURIE CARLSON & CURT CARLSON

Upon the Petition of)
LAURIE CARLSON,)
Petitioner-Appellee,)
)
And Concerning)
CURT CARLSON,)
Respondent-Appellant.)

Filed April 21, 1981

0-450
2-64788



Appeal from Wright District Court. Newt Draheim, Judge.

Respondent-husband appeals from economic provisions of the parties' dissolution decree. AFFIRMED.

C. Joseph Coleman, Jr., of Mitchell, Coleman, Perkins & Enke, Fort Dodge, Ia., for respondent-appellant.

James L. Kramer, of Johnson, Erb, Latham & Gibb, Fort Dodge, Ia., for petitioner-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

PER CURIAM

Respondent-husband appeals from economic provisions of the parties' dissolution decree. He claims that the property division was inequitable and that the award of attorney fees to the wife was excessive. Our review is de novo. Iowa R. App. P. 4. We affirm.

Curt and Laurie Carlson were married on June 17, 1978; Laurie filed this petition on April 2, 1979. After a hearing on January 31, 1980, the trial court issued its findings, conclusions and decree eight days later. Laurie was awarded the 1977 Buick automobile valued at $4,100 and a cash award of $3,600 payable either in a lump sum or in twelve $300 monthly installments. Curt was awarded the house valued at $31,500 and encumbered by a $23,000 mortgage. He was also awarded the pickup truck and motorcycle with a combined value of $5,400. Finally, he was ordered to pay costs and $300 toward Laurie's attorney fees. This appeal followed.

I. In determining a proper division of marital property, we are guided by the familiar factors listed in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), except fault. After considering those factors, we see no reason to disturb the trial court's property decree. Although this marriage was of very short duration, the award to Laurie was not excessive. Her net weekly income of $117 as a computer programmer contributed to the marriage as did her activities as a homemaker. Curt, on the other hand, was awarded the house having an equity of at least $8,000 and the two vehicles valued at $5,400.

Curt claims that the house was encumbered by an additional $9,000, representing loans made by his mother for home improvements. Laurie claims that the sum was a gift and not a loan. We agree. It is not disputed that no promissory note or mortgage was given to his mother. Nothing was ever said by anyone about repayment being required. Under these circumstances, we presume the $9,000 was a gift; Curt has not presented sufficient evidence to rebut this presumption. See Barth v. Severson, 190 Iowa 770, 785, 183 N.W. 617, 622 (1921). The trial court properly valued the marital assets.

II. Curt also claims that the award of attorney fees to Laurie was excessive. We disagree. The trial court has considerable discretion in awarding fees. Locke v. Locke, 263 N.W.2d 694, 696 (Iowa 1978). We find no abuse of discretion. We also note that

Curt is in a better financial position than is Laurie.

She also requested an award of attorney fees incurred on this appeal. Such an award depends on the financial circumstances of the parties. In re Marriage of Burham, 283 N.W.2d 269, 278 (Iowa 1979. Each party shall be responsible for his or her own attorney fees occasioned by this appeal. Costs are assessed against Curt.

AFFIRMED.