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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF SHARON KAY MOOSE AND ARTHUR ROLAND MOOSE

Upon the Petition of)
SHARON KAY MOOSE,) Filed February 24, 1981
Petitioner-Appellee,)
And Concerning)
ARTHUR ROLAND MOOSE,) 0-406
2-64599
Respondent-Appellant.)

Appeal from Warren District Court - Van Wifvat, Judge.

Respondent husband appeals from economic provisions of the parties' dissolution decree, asserting that both the property division and the child support award are inequitable. Both parties also request attorney fees on appeal. AFFIRMED.

Harlan M. Hockett of Flagg, Hockett, Benhart & Golden, Des Moines, for respondent-appellant.

Mason G. Ouderkirk of Ouderkirk Law Firm, Indianola, for petitioner-appellee.

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

DONIELSON, J.

Respondent Arthur Moose appeals from the economic provisions of the parties' dissolution decree, contending that both the property division and the child support award are inequitable. Additionally, both parties request attorney fees on appeal. We affirm.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. Our responsibility is to review the facts as well as the law and to determine rights anew from the credible evidence on properly presented and preserved issues. In re Marriage of Full, 255 N.W.2d 153, 156 (Iowa 1977). While we give weight to the findings of the trial court, especially where the credibility of witnesses is involved, we are not bound by them. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974); Iowa R. App. P. 14(f)(7). As in all cases of this type, precedent is of little value and our decision must ultimately depend on the particular facts of this case. In re Marriage of Kehrli, 241 N.W.2d 923, 926 (Iowa 1976).

I.

Petitioner Sharon Moose and the respondent had been married for seven years when their marriage was dissolved on January 3, 1980. Petitioner was awarded custody of the couples' two minor children, ages four and six, and respondent was required to pay $42.50 per child per week in child support until each child reaches the age of eighteen, marries, or becomes self-supporting. In dividing the parties' property, the trial court awarded each one a vehicle of the same value and a certain amount of equity in the family home. Petitioner was also awarded the household furnishings (which she valued at $2000 and respondent valued at $9000) and a riding lawnmower. Respondent was awarded his tools (the value of which was also in dispute), a snowmobile, and a motorcycle. Respondent is a carpenter with 1978 earnings of $16,991 and monthly expenses of $1060. Petitioner is a part-time beautician with 1978 earnings of $3872 and monthly expenses of $837. Respondent brought to the marriage assets of approximately $5500, while the wife had $42,000 in assets at the time of marriage.

II.

In contending that the property division is inequitable, respondent raises essentially two points: 1) that the trial court erred in determining the amount of credit to be given each party for assets brought into the marriage and 2) that the trial court erred in not considering the amount of financial contributions made during the marriage

as a factor relevant to the determination of the amount of credit each party was to receive in the property division. We reject these arguments and conclude that the property settlement was equitable.

With respect to assets brought into the marriage, the trial court found that the petitioner deserved a credit in the amount of $15,523.58. Part of this figure represents the value of a washer and dryer, a mobile home, and a car, all owned by petitioner at the time she married respondent, plus a certain amount of money by which her personal bank account decreased after the parties were married. The remainder of the $15,523.58 represents monthly mortgage payments made by the petitioner before this matter came to trial. Respondent was given a credit for $5129.50, representing the value of a race car he brought into the marriage and a mortgage payment he made before trial. Respondent now contends that he should also receive credit for a $500 truck he brought into the marriage; we find no merit in this argument since respondent was in fact awarded the truck in the property division. He also maintains that the petitioner should not be given credit for the value of the washer and dryer and for the amount by which her personal bank account decreased after the parties were married. Our de novo review of the record, however, compels us to conclude otherwise.

Nor do we believe that the trial court erred in not determining property division credits at least in part on the basis of financial contributions made by each party during the marriage. Respondent contends that the fact that he contributed $79,000 of income to the marriage while petitioner contributed only $10,000 in income should entitle him to a substantial credit in the property division. We are unpersuaded by this argument, however, because respondent does not acknowledge petitioner's significant nonfinancial contribution to the marriage. Throughout the marriage, petitioner maintained the home and took care of the daily needs of two small children, labor which, although totally uncompensated, must be recognized for its full worth. In re Marriage of Moorhead, 224 N.W.2d 242, 245 (Iowa 1974). We are therefore unable to conclude that the division of the parties' property was inequitable.

III.

Respondent next contends that the child support provision of the decree, which requires him to pay $42.50 per child per week, is inequitable. We disagree.

Section 598.21, The Code 1979, which provides statutory authority for child support awards upon dissolution of marriage, is designed to enforce the "legal as well as moral

duty of support between parent and child." In re Marriage of Zoellner, 219 N.W.2d 517, 524 (Iowa 1974). Both parents are under the same legal duty to support their children. In re Marriage of Wahl, 246 N.W.2d 268, 272 (Iowa 1976). This obligation, however, is not necessarily to be borne equally, but should be apportioned according to the reasonable ability of each parent to contribute. In re Marriage of Fleener, 247 N.W.2d 219, 221 (Iowa 1976); Wahl, 246 N.W.2d at 272. While precedent is of little value in determining the extent of the child support obligation and each case is dependent upon its own particular facts, Zoellner, 219 N.W.2d at 525, the Iowa Supreme Court has set forth various criteria to be considered in the determination. Id. With these factors in mind, and noting especially that the respondent husband had a 1978 income of $16,991 while petitioner's was $3872, we conclude that $42.50 per child per week is justified under the circumstances.

IV.

Finally, both parties request attorney fees on this appeal. In evaluating a request for attorney fees incurred on appeal, we consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. In re Marriage of Erickson, 228 N.W.2d 57, 59 (Iowa 1975); In re Marriage of Stom, 226 N.W.2d 797, 800 (Iowa 1975). While we do not dispute respondent's contention that he brought this appeal in good faith, see Geisinger v. Geisinger, 202 N.W.2d 44, 47 (Iowa 1972), we do not find that his financial position is such that appellate attorney fees are justified. We reach the same conclusion with respect to the petitioner, who has a rather substantial bank account at her disposal. Therefore, both parties' requests for appellate attorney fees are denied.

AFFIRMED.