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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF WILLIAM HANSEN AND JUNE HANSEN

Upon the Petition of)
WILLIAM HANSEN,)
Petitioner-Appellee,) Filed April 8, 1983
And Concerning)
JUNE HANSEN,) 2-474 / 2-67878
Respondent-Appellant.)

Appeal from Sac District Court - R. K. Richardson, Judge.

Respondent wife appeals from economic provisions of the parties' dissolution decree, asserting that both the property division and the alimony award were inequitable. AFFIRMED.

James R. Van Dyke, Carroll, for respondent-appellant.

Thomas L. McCullough of McCullough Law Firm, Sac City, for petitioner-appellee.

Considered by Donielson, Acting C.J., and Johnson and Schlegel, JJ.

DONIELSON, J.

Respondent wife appeals from economic provisions of the parties' dissolution decree, asserting that both the property division and the alimony award were inequitable. We affirm.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. It is our responsibility to review the facts as well as the law to determine rights anew from the credible evidence on issues properly presented and preserved. In re Marriage of Full, 255 N.W.2d 153, 158 (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. Iowa R. App. P. 14(f)(7); In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974); In re Guardianship of Sams, 256 N.W.2d 570, 573 (Iowa 1977).

I.

The parties, William and June Hansen, were married in May, 1978 and were, respectively, 71 and 64 years old at the time of trial. The decree of dissolution was filed in 1981. June was married once before and had four children by her previous marriage. She had no substantial assets or income at the time of the marriage and has been unemployed since 1971 due to poor health. William, also married once before, is a retired farmer who brought to the marriage a 188-acre farm which was valued at $545,200at the time of trial.

Shortly after the marriage the parties purchased a home valued at $55,000 using assets of the husband. The husband has income of $18,000 per year from the rent of a farm, $400 from pasture rent, $100 per month from the rent of a farmhouse, and $6,000 per year social security. The wife has no income other than social security.

In the final decree the trial court awarded June the household goods and the furnishings presently in her custody, a car, personal property which she owned

prior to the marriage, and alimony of $100 per month for eighteen months. William was awarded the remainder of the parties' property, including the house and farm. June then instituted this appeal and requests attorney fees associated with the appeal.

II.

June contends the property division is inequitable. Our analysis is governed by § 598.21 which codified many aspects of our prior case law. See Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968)(modified to exclude fault, In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1976)). The ultimate question is, as it has always been, whether the distribution of property was equitable. We reject any rule based on percentage division of the total assets and must determine what is equitable under the specific facts of this case. In re Marriage of Callenius, 309 N.W.2d 511, 514 (Iowa 1981). When asked to review an individual economic provision of a dissolution decree, we consider all the provisions together as an integrated whole. In re Marriage of McFarland, 239 N.W.2d 175, 179 (Iowa 1976).

The marriage here was of short duration and the parties accumulated little additional property during the marriage. While they acquired a home valued at $55,000, only the husband contributed toward its purchase. It appears from the record that both parties performed the household duties and worked to maintain the home. Both are senior citizens and neither worked during the course of the marriage. William does receive income from the rental of his properties. We recognize that June is in poor health and probably will never secure a job. However, the record suggests that she exits the marriage in a better position than she entered. She has no substantial debts, and received household goods and furnishings in addition to her own personal property brought into the marriage, and an automobile. Under these circumstances, we believe the award is equitable and justified.

III.

June also challenges the alimony provision. We note that the court can porperly consider how the property has been divided in assessing the needs and resources of the parties in fixing alimony. See In re Marriage of Peterson, 227 N.W.2d 139, 142 (Iowa 1975). Support may be awarded after considering the factors set forth in section 598.21(3). Applying these criteria in the instant case, we find the award of $100 per month for eighteen (18) months to be equitable. Again, we stress that the marriage was of relatively short duration, lasting only approximately three years. June has no substantial debts and would appear to have minimal living expenses. While she is in somewhat poor health and, therefore, does not work, the record does not show that she will need extensive medical care in the immediate future. The only source of income for her is her social security benefits. We believe, however, that the additional $100 per month for the eighteen (18) months will help her to reestablish herself in a satisfactory residence.

IV.

Finally, we address the issue of attorney fees and costs on appeal. In evaluating June's request for such fees, we consider the needs of the party making the request and the ability of the other party to pay. In re Marriage of Burham, 283 N.W.2d 269, 278 (Iowa 1979); In re Marriage of Williams, 303 N.W.2d 160, 167 (Iowa 1981). We hold that William shall pay June's attorney fees and costs on this appeal.

AFFIRMED.

All judges concur, except Johnson, J., who dissents.

JOHNSON, J. (dissenting in part)

I dissent from that part of the majority's opinion affirming trial court's alimony award to respondent of $100 per month for eighteen months. I believe this record and the applicable law requires that the $100 per month award continue until the death of either party or respondent's remarriage.