FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 8-258 / 96-1909

WILFORD GEORGE PETERSON and DONALD EDWIN PETERSON,
Appellees,

vs.

CLARA LAVERNA FRANK,
Appellant.

Appeal from the Iowa District Court for Wright County, William J. Pattinson, Judge.

The defendant appeals a district court ruling holding that her cotenants had the right to partition their interests, sell the property and divide the proceeds. **AFFIRMED.**

Clara Laverna Frank, Britt, pro se, and Jerry Frank, power of attorney for Clara Frank, Britt, for appellant.

Gregory H. Stoebe, Humboldt, for appellees.

Considered en banc. Sackett, J., takes no part.

PER CURIUM.

Clara Frank appeals a district court ruling holding that her cotenants had the right to partition their interests, sell the property, and divide the proceeds. We affirm.

Wilford Peterson, Donald Peterson, and Clara Frank are siblings. Following the death of their mother in 1992, they became owners of 120 acres of farmland in Wright County as tenants in common. Unable to come to an agreement with Clara regarding the disposition of their mother's estate, Wilford and Donald sought to partition their interests and sell the property. Clara resisted.

Following a hearing, the district court determined that the property's uneven soil quality and topography would make it difficult to make an equitable physical division of the property and ordered that the property be sold and the proceeds divided among the three cotenants.

Clara filed a motion for stay of all judgment and proceedings, claiming homestead rights even though she did not live on the property. Wilford and Donald filed a contempt action against Clara, claiming she had failed to produce an abstract of the subject real estate as required by the court's previous order. The court denied Clara's motion and, after a hearing, found her in contempt. Multiple filings and further orders appear in the record, several of which pertain to Clara's attempts to lease the land and her refusal to cooperate with the court-appointed referee. Two

appeals have been filed by Clara, acting pro se. It is difficult to discern the specific issues being appealed.

Our scope of review of an action in equity for partition of real property is de novo. Iowa R. App. P. 4; *Kimm v. Kimm*, 464 N.W.2d 468, 470 (Iowa App. 1990). We give weight to the trial court's findings, but are not bound by them. Iowa R. App. P. 14(f)(7).

Clara asserts the district court's multiple and various conclusions were erroneous. However, after review of the record, including all motions and orders entered, we agree that the only equitable solution in this case was to order the partition of the property by sale. Clara further claims she was denied her constitutional rights of due process and that the Iowa rules of civil procedure pertaining to partition were violated by the court. We find no merit in her claims. Proper notice appears of record for all proceedings. Furthermore, it appears the district court in response to the many filings in this case displayed patience and calm in the face of a bitter controversy among family members where misunderstanding and distrust prevailed. There is no evidence of fraudulent activity or collusion.

Having considered all other arguments before us on appeal, we affirm the district court.

AFFIRMED.