

SEP 21 1978
430

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF HELEN JANE LINDLE and EDWARD M. LINDLE

Upon the Petition of)

HELEN JANE LINDLE,)

Filed September 21, 1978

Appellant,)

And Concerning)

EDWARD M. LINDLE,)

622
3-61557

Appellee.)

Appeal from Muscatine District Court - R. K. Stohr, Judge.

Petitioner-wife appeals economic provisions of dissolution decree on ground there was insufficient valuation evidence for farm and stocks and bonds; she also seeks an award of alimony and no termination of child support during summer visitation. Respondent-husband cross-appeals for custody of five minor children or reduction in child support payments and an award of family heirlooms. Affirmed in part, modified in part and remanded with directions.

David W. Newell, of Newell, DeKock & Johnston, Muscatine, for appellant.

Bernice Petersen, of Drake & Petersen, and A. Wayne Eckhardt, Muscatine, for appellee.

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

PER CURIAM

Petitioner Helen Jane Lindle (Jane) appeals the economic provisions of the dissolution decree. She also asserts she should have been allowed to reopen the evidence or granted a new trial on the valuation of the farm and stocks and bonds. Respondent Edward M. Lindle (Ed) cross-appeals for custody of the five minor children or a reduction in child support payments and for an amendment to the property division to grant him items of household furniture which are family heirlooms. We affirm with modification.

Jane cites *Lessenger v. Lessenger*, 258 Iowa 170, 138 N.W.2d 58 and *Locke v. Locke*, 246 N.W.2d 246 (Iowa 1976) in support of her contention the record of property holdings was insufficient to support a final decree. We disagree on two grounds: (1) *Locke* involved a trial record in which there was no evidence of the value of the disputed property, and (2) the trial court in the instant case warned the parties they should tend to their record regarding the value of the farm interest and the stocks and bonds. Ultimately the trial court set the valuations at the amounts Jane listed in her financial statement. We feel confident that the generalized nature of Jane's offer of proof in support of her application to reopen the evidence did not persuade the trial judge that any useful purpose would be served by reopening the case for additional evidence or new trial. We find no abuse of discretion in this decision.

The property division allows Edward to retain his farming interests intact and gives Jane almost all the non-farm income-producing assets of the marriage. Edward contributed substantial inherited assets, acquired before and during the marriage, to the family. The property division decreed by the trial court properly accords a somewhat larger share to Edward in recognition of this contribution. *Conaway v. Conaway*, 217 N.W.2d 625, 627 (Iowa 1974); *In re Marriage of Beeh*, 214 N.W.2d 170, 175 (Iowa 1974). Edward listed \$13,500 in livestock in his financial statement filed less than a week before trial. The trial court failed to dispose of this asset. Jane should receive an additional cash payment of \$6750 payable upon the same terms as the \$7500 lump sum payment decreed by the trial court. Edward is awarded the livestock. The record shows no instance in which Edward sought "family heirlooms" in the trial court. He has not preserved this issue for appeal.

Jane has been the caring parent for the children's daily needs throughout the marriage. See *In re Marriage of McFarland*, 233 N.W.2d 175, 178 (Iowa 1976). The professional family services counselor recommended custody in Jane with reasonable visitation as open and unrestrictive as possible in Edward. We find no error in the trial court following this recommendation. We affirm the trial court's custody decision.

The child support should not cease during Edward's summer visitation with the children since most of the expenses of maintaining the home will continue. *Fleener v. Fleener*, 247 N.W.2d 219, 221 (Iowa 1976). We are not willing to rely, as Edward urges, upon Jane's uncle's generosity to continue to provide indefinitely a rent-free home.

Jane has the custodial care of five adolescent and pre-adolescent children; she also has had no training or job experience outside the home. She should receive alimony in the amount of \$200 per month for three years, commencing the first month following issuance of procedendo in this appeal. These payments should assist Jane in securing further education or job training to permit her to become self-supporting. In *Re Marriage of Seidenfeld*, 241 N.W.2d 881, 884 (Iowa 1976). They shall be a charge against Edward's estate should he die before the end of the three-year period, and his obligation to pay alimony shall terminate if she remarries.

Jane received no trial court attorney fees. She requests an allowance for attorney fees incurred in this appeal. We order Edward to pay \$750 toward these appeal fees. Costs on appeal are assessed to Edward.

This case is remanded for entry of provisions in the decree in accordance with this opinion.

Affirmed in part, modified in part and remanded with directions.