

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ROBERT L. McDOWELL AND DONNA L. McDOWELL

Upon the Petition of	)	
ROBERT L. McDOWELL,	)	Filed January 28, 1977
Appellee,	)	<u>31</u>
		2-57951
And Concerning	)	
DONNA L. McDOWELL,	)	
Appellant.	)	

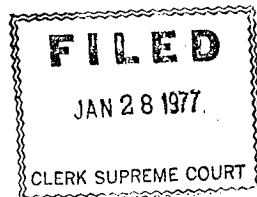
Appeal from Lee District Court--J. R. Leary, Judge.

Appeal by respondent from the economic provisions of a dissolution of marriage. Modified, affirmed and remanded.

Norman, Younggren and Webber of Keokuk, Iowa, for appellant.

Charles O. Frazier of Keokuk, Iowa, for appellee.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.



CARTER, J.

This is an appeal from the economic provisions of a dissolution decree. Respondent, Donna L. McDowell, contends the decree failed to order an adequate child support contribution by petitioner, Robert L. McDowell. She also complains of the failure of the trial court to grant to her any property settlement or alimony. We agree with some but not all of her contentions and modify the decree accordingly.

At the time of the entry of the decree Donna was 27 and Robert 24. The parties married in 1969. Soon thereafter Robert adopted Thomas, Donna's child by a prior marriage. Thomas' date of birth is June 30, 1965.

From 1969 until their separation in 1973, the parties lived in a mobile home. At the trial Robert testified that he considered the mobile home to be his, that his father had paid for it, that its value at the time of trial did not exceed \$2000 and that he still owed his father \$2000 on the transaction. Robert's father substantially corroborated the testimony relating to Robert's obligation to repay him. The trial court apparently credited this testimony as do we.

Robert also testified that he had purchased a houseboat during the marriage for \$2600 and sold it just prior to the trial for \$2700. It was his testimony that this boat had been purchased entirely with borrowed money and that the sale proceeds had been applied on this indebtedness. We credit this testimony.

At the time of the trial Donna was employed as a YMCA program director grossing \$541 per month and netting \$414 per month. Robert was employed as a management trainee by a construction company owned by his father grossing approximately \$645 per month and netting \$472 per month. In addition to his salary he receives from his father's business a car which he may use

for personal use, some gasoline and payment upon his telephone bill. He is also permitted to locate his mobile home rent free upon his father's property.

The trial court's decree dissolved the marriage, awarded custody of Thomas to Donna, required Robert to make weekly child support payments of \$15 and granted no alimony to either party. The only property settlement contained in the decree is a provision awarding the mobile home to Robert and requiring him to assume all indebtedness with respect thereto.

Upon our review of the record before us we agree with the trial court that Donna is not entitled to alimony in this case. Precedent is of little value in making such determinations and each case must be decided on its own peculiar circumstances. With respect to this and the other economic determinations involved in this appeal we apply, to the facts of this case, the criteria stated in *Schantz v. Schantz*, 163 N.W.2d 398, 405 (Iowa 1968) as modified by *In re Marriage of Williams* 199 N.W.2d 339, 344 (Iowa 1972).

Application of these criteria also persuades us to agree with the trial court's property settlement. Donna's argument on appeal is that she should share in the accumulation represented by the mobile home and the houseboat by means of an "economic adjustment" in her favor. Inferentially she is suggesting that she be awarded some cash settlement from Robert. But our finding of the facts is such that there was no equity in the mobile home to be divided and the evidence fails to show any net proceeds from the sale of the houseboat.

Lastly we consider Donna's claim that the child support which Robert is required to pay is inadequate. We agree that it is, and that Robert should be required to make weekly child support payments of \$30 for the period during which a court is

empowered to order such payments under section 598.1(2), The Code.

The case is remanded to the district court for entry of a modified decree with respect to child support, retroactive to the date of the original decree. Except as modified the original decree is affirmed. Costs on appeal are assessed against Robert and shall include an additional attorney fee of \$400 to apply upon Donna's attorney fees on this appeal.

Modified in part, affirmed in part, and remanded.