IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF RITA I. FUCHS AND ROBERT GLENN FUCHS

UPON THE PETITION OF **RITA I. FUCHS,**	)	Filed May 28, 1985 125
Petitioner-Appellee,	)	5-166 / 84-1148
AND CONCERNING **ROBERT GLENN FUCHS,**	)	
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Pocahontas County, Newt Draheim, Judge.

Respondent-husband appeals from the decree dissolving the parties' marriage, asserting that the trial court's division of the parties' equity in their house is inequitable and that his child support obligation is excessive. AFFIRMED AS MODIFIED.

Donald A. Beneke, Pocahantas, for respondent-appellant.

William M. Alexander, Laurens, for petitioner-appellee.

Considered by Oxberger, C.J., Donielson, and Hayden, JJ.

The respondent asks this court to modify the child support and property divisions of the decree dissolving his marriage with petitioner. We affirm as modified.

Robert and Rita Fuchs were married for twelve years at the time of the divorce decree and have three minor children. Rita is thirty-three, has a high school education and six-months training at a business school. She has been employed as a check-out clerk and earns $506 per month. Robert is thirty-nine years old, has a high school education and works as a mechanic. His financial statement shows he earns $883 per month.

Rita was awarded custody of the parties' children and then given $2250 of the couple's household goods and a $500 1969 Dodge. She was required to assume several debts totaling $962, leaving her with a net worth of $1788. Robert was given $2250 in household goods and ordered to pay a debt of $1776. He claims the debt he owes to his father of $5700 should also be included in the liabilities he is to assume. However, the court apparently decided that the evidence was sufficient to show that Robert was not required to pay back the debt and could return the money when he was able to do so. We agree with the court the testimony shows the amount should not have been included in the debts assumed by Robert. His net worth after the divorce is $474.

The homestead was valued at $45,000, and during the course of the marriage the couple has acquired $20,000 in equity. The court awarded the homestead to Rita, with the proviso that if she remarried or sold the home before June 30, 1989, she should pay to Robert one-half of the equity computed to May 31, 1984. After that point if Rita sold the home or remarried, Robert would receive none of the equity.

In dividing property in a dissolution proceeding, we are to consider the factors set out at Iowa Code section 598.21(1). In reviewing the parties' contributions, the length of marriage, and other aspects of the decree, we agree that it is inequitable to provide that Robert will lose all of his interest in the home if Rita refrains from remarrying or selling the house for four years. This would result in a property award of the marital assets of $21,788 to Rita and $474 to Robert. While respondent questions the desirability of making the interest contingent on petitioner's remarriage, our courts have found such a condition may provide for equity in a property division. See In re Marriage of Gibson, 320 N.W.2d 822 (Iowa 1982); In re Marriage of Jordan, 203 N.W.2d 314, 316 (Iowa 1972). We find equity would be served by such a provision here.

Accordingly, we modify the award to indicate that Robert shall have a lien against the house of one-half of the equity computed to May 31, 1984. At the time the youngest child reaches majority or is emancipated, the house shall be sold and Robert's lien will be paid. The lien shall mature and become due prior to this time if Rita sells the house, remarries, or cohabitates with an unrelated adult male.

Respondent also says the child support award of $135 per child or $405 per month is too high considering the parties' income and expenses. Rita had originally asked for $100 per month per child for the three children. In considering the factors set out at section 598.21(4) of the Code, and giving primary importance to the children's best interests, we agree the award should be modified to $100 per month per child.

All other portions of the decree are affirmed.

AFFIRMED AS MODIFIED.