

FILED 455

SEP 9 1977

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF KENNETH R. McNEW and RAMONDA A. McNEW

Upon the Petition of	)	
KENNETH R. McNEW,	)	Filed September 9, 1977
	)	
Appellant,	)	
	)	
And Concerning	)	
	)	
RAMONDA A. McNEW,	)	183
	)	<u>2-58811</u>
Appellee.	)	

Appeal from Lee District Court - Harlan W. Bainter, Judge.

Appeal from the economic and visitation provisions of a dissolution decree.

Affirmed as modified.

Concannon, Anderson and McMurray, of Keokuk, for appellant.

James P. Hoffman, of Keokuk, for appellee.

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

PER CURIAM

This is an appeal by petitioner, Kenneth McNew, from a decree dissolving his marriage of 13 years to respondent, Ramonda McNew. Two issues are presented: (1) whether the trial court's disposition with respect to property division, alimony and payment of respondent's attorney fees is equitable; and (2) whether the decree affords Ramonda an excessive amount of visitation with the two minor children of the parties, whose custody was granted to Kenneth. We consider these issues de novo.

I. The Economic Provisions. In our determination of the economic provisions of the decree, we apply the principles set forth in *Schantz v. Schantz*, 163 N.W.2d 398, 405 (Iowa 1968) excluding consideration of fault. Precedent is of little value in making such determinations and each case must be determined on its own peculiar circumstances. With respect to the alimony awarded Ramonda, Kenneth's contention is that there should be none. The trial court provided for payment of alimony to Ramonda in the sum of \$200 per month until she dies or remarries. In view of the evidence, which we credit, that Ramonda, at the time of the decree, was unemployed with no immediate prospects of finding employment, that her future earning capacity is quite uncertain, and that Kenneth, a self-employed sheet metal contractor, earned annually in excess of \$25,000, as shown by his most recent federal income tax return at time of trial, we do not disturb the trial court's determination as to alimony or attorney fees.

With respect to the property division, the values assigned to specific items of property divided between the parties by the trial court, including \$5784.50 cash awarded to Ramonda, resulted in Kenneth receiving assets valued at \$76,840 and Ramonda receiving assets valued at \$77,055.50. Kenneth challenges this nearly equal property division on the principal ground that the trial court, in striving for an equal property division, placed an excessively high value on the business assets received by Kenneth. The value of these business assets, as found by the trial court, was clearly within the range of valuation testimony given by the witnesses which the trial court had the opportunity to observe. We review this evidence de novo but conclude that the findings of the trial court as to these valuations of the assets and the division of property made in accordance with such valuations should not be disturbed on appeal.

II. Child Visitation. Kenneth contends that the frequency of child visitation as provided in the trial court's decree is too great. Our review of this provision of the decree leads to the conclusion that the period of summer visitation (being six weeks in

duration) is potentially disruptive. In other respects we believe the trial court's provisions for visitation are correct. We modify the decree so as to provide that the period of summer visitation should be reduced to four weeks. See Black v. Black, 203 N.W.2d 121, 125 (Iowa 1972). As so modified the decree is affirmed. Costs are taxed 75% to Kenneth, 25% to Ramonda. No attorney fees are allowed on appeal.