FILED
AUG 3 0 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-162 / 89-1036

IN RE THE MARRIAGE OF ANITA C. RIDLEN AND RICHARD C. RIDLEN

Upon the Petition of

ANITA C. RIDLEN,

Petitioner-Appellee,

And Concerning

RICHARD C. RIDLEN,

Respondent-Appellant.

553

Appeal from the Iowa District Court for Marion County, Jerrold W. Jordan, Judge.

Husband appeals the custody and economic provisions of the district court's decree of dissolution of marriage. **AFFIRMED.**

David A. Johnson of Johnson, Lane & Vogel, Knoxville, for appellant.

Michael P. Brice, Oskaloosa, and Robert W. Conrad and R.L. Hersbergen, Knoxville, for appellee.

Considered by Donielson, P.J., and Schlegel and Sackett, JJ.

SACKETT, J.

This appeal challenges the custody award and property division of a dissolution decree. We affirm.

Respondent-appellant Richard C. Ridlen and petitioner-appellee Anita C. Ridlen were married in 1979. They have two children, who were of preschool age when the decree was entered. The parties were awarded joint custody of the children, and Anita was given primary care.

Richard contends he should be physical custodian of the two children. Our de novo review of the record convinces us, as the trial court found, that both parents have shown care and concern for their children and either parent would be a suitable custodian. The question of which parent would render better care is very close. We have considered the facts and applicable case law. In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). We agree with the trial court decision and affirm on this issue.

The second issue concerns the property division made by the trial court. The parties agree their net worth at the time of separation was about $44,000. Richard contends the trial court in dividing the property did not properly consider his net worth at the time of marriage. He also argues the fact that his efforts alone resulted in the accumulation of a pension plan at his place of employment should result in the pension plan being awarded solely to him. Richard's argument is that he should leave the

marriage with nearly all the property because his net worth at the time of marriage exceeded the current combined net worth of the parties.

We recognize disparities between the assets of parties at the time of marriage is a major factor in determining the rights of parties with respect to property at the time of the dissolution. In re Marriage of Wallace, 315 N.W.2d 827, 830-31 (Iowa App. 1981). Our review of this issue is difficult because the parties agreed to a division of personal property, but the value of the personal property each party received pursuant to that division was not made a part of the record. These items were included, however, in determining the parties' net worth of $44,000. $31,000 of the parties' current net worth was a profit-sharing plan Richard had with his employer.

The property that was divided by the trial court was divided nearly equally. A portion of the profit-sharing was set aside to Anita as a part of a qualified domestic relations order. Richard complains he will be required to pay taxes and penalties on that portion set aside to Anita. We do not so interpret the trial court's order. Rather, we interpret the order as providing Anita shall be subject to any and all taxes and penalties caused by any withdrawal from that share of the account allocated to her.

The issue is what is equitable. In re Marriage of Romig, 207 N.W.2d 780, 783 (Iowa 1973). We consider the length of the marriage, which is over ten years, and the fact that the parties were not able to accumulate additional net worth during the term of the marriage. See In re Marriage of Steenhoek, 305 N.W.2d 448 (Iowa 1981); In re Marriage of Winegard, 278 N.W.2d 505 (Iowa 1979). We affirm the division made by the trial court.

The trial court ordered Richard to pay $1,500 toward Anita's attorney fees. Richard complains this was inequitable. The awarding of attorney fees is in the discretion of the trial court. We find no abuse of discretion. See In re Marriage of Dahl, 418 N.W.2d 358 (Iowa App. 1987). The parties shall pay their own appellate attorney fees. Costs on appeal are taxed to Richard.

AFFIRMED.