



IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JAMES LEE NOBLE AND BEVERLY KAY NOBLE

302

UPON THE PETITION OF
JAMES LEE NOBLE,

)

Filed October 25, 1983

)

Petitioner-Appellant,

)

3-240
2-68909

AND CONCERNING
BEVERLY KAY NOBLE,

)

Respondent-Appellee.

)

Appeal from Lucas District Court, M. J. V. Hayden, Judge.

Petitioner-husband appeals from the decree dissolving the parties' marriage.

AFFIRMED.

Stephen Meyer, Chariton, for petitioner-appellant.

William L. Shelton and Michael J. Streit, Chariton, for respondent-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Schlegel, and Sackett,
JJ. Hayden, J., takes no part.

OXBERGER, C.J.

Petitioner-husband appeals from the decree dissolving the parties' marriage, asserting: (1) the farm he inherited from his mother during the parties' marriage should not have been subject to property division; and (2) if the farm was properly subject to property division, the trial court should have either divided the farm between the parties or ordered it sold and the proceeds divided between the parties rather than providing for the parties to continue to own the farm as tenants in common. We affirm.

On August 7, 1981, James made a quit claim deed conveyance to Beverly of an undivided one-half of a 220-acre farm he inherited from his mother. The record clearly indicates that James made the conveyance voluntarily and knowingly, against the advice of his attorney, in consideration of a reconciliation with his wife. Iowa Code section 597.4 states: "A conveyance, transfer, or lien, executed by either husband or wife to or in favor of the other, shall be valid to the same extent as between other persons." The legislature intended that commercial dealings with spouses be given no different treatment than those between other parties. In re Matter of Estate of Tollefsrud, 275 N.W.2d 412, 418 (Iowa 1979). Since there has been no indication of fraud, we find the conveyance to be valid and binding. Accordingly, we affirm that portion of the trial court's ruling.

James argues in the alternative that if Beverly is entitled to some portion of the farm, the trial court erred in not dividing the property or ordering it sold without a partition proceeding. We find no merit in this argument. Although we are not bound by the trial court's findings, we give them weight. Iowa R. App. P. 14(f)(7). In our de novo review, we see no error in the trial court's decision to leave title to the farm in both parties' names as tenants in common. The subsequent partition proceeding was proper as any owner of an undivided interest in real estate may demand it be partitioned. Neoco, Inc. v. Christenson, 312 N.W.2d 559, 560 (Iowa 1981). We affirm the trial court's decision.

AFFIRMED.