

IN THE COURT OF APPEALS OF IOWA

No. 9-146 / 88-1707

FILED

AUG 23 1989

CLERK SUPREME COURT

CRAIG D. HOBBS,

Appellee,

vs.

SANDRA J. DAVIS,

Appellant.

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Appeal from the Iowa District Court for Woodbury County,
Richard J. Vipond, Judge.

Sandra J. Davis appeals from a district court ruling.

AFFIRMED.

Patrick C. McCormick, Sioux City, for the appellant.

David J. O'Brien and Patrick D. Kuehl of O'Brien, Galvin
& Kuehl, Sioux City, for the appellee.

Considered by Oxberger, C.J., and Schlegel and Sackett,
JJ.

PER CURIAM

Sandra J. Davis appeals from the district court's ruling placing her two boys in the physical care of their father, Craig Hobbs, and prays that Craig be ordered to reimburse her the \$5,000 she contributed toward the purchase of a house awarded to Craig. Our scope of review is de novo. Iowa R. App. P. 14(f)(7). We affirm the decision of the trial court.

The determination of physical custody of the children upon the separation of the parents from a cohabitational arrangement, or a marriage, is predicated on criteria that demonstrate concern for the welfare of the children. See In re Marriage of Winters, 223 N.W.2d 165 (Iowa 1974); Heyer v. Peterson, 397 N.W.2d 1, 7 (Iowa 1981). Upon review of the facts and testimony of this case, we are satisfied that the trial court decision on the custody of the children is in the children's best interests.

With regard to Sandra's plea for reimbursement of the \$5,000 contribution toward the house that was awarded to Craig, we find this request without merit because presently there is no equity in the property in question.

AFFIRMED.

Schlegel, J. concurs; Sackett, J. concurs in part and dissents in part.

SACKETT, J. (concurring in part and dissenting in part)

I concur in part and dissent in part.

I agree with the decision to grant Craig physical care. I would modify that part of the order divesting Sandra of an interest in the house. This is not an action for dissolution of marriage.