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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF PATRICIA FALCON & DONALD L. FALCON

Upon the Petition of)
PATRICIA FALCON,) Filed November 22, 1978
Appellee,)
And Concerning) 676 / 2-60889
DONALD L. FALCON,)
Appellant.)

Appeal from Linn District Court - Clinton E. Shaeffer, Judge.

Respondent appeals property settlement provision of divorce decree. Affirmed as modified.

Francis J. Pruss, Cedar Rapids, for Appellant.

Robert F. Wilson, Cedar Rapids, for Appellee.

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

PER CURIAM

Respondent Donald Falcon appeals dissolution decree which awarded a judgment of $84,000 in favor of petitioner Patricia Falcon.

At time of trial, the parties had been married for 24 years. Neither of them brought substantial assets into the marriage. The major item of property acquired was a farm of approximately 100 acres. Donald's father paid the principal on the farm of $38,500 as a gift to Donald and his family. The value of the farm was disputed at trial; Donald estimated it to be worth $150,000 and a real estate broker for Patricia estimated $226,000. Donald earned approximately $15,000 as a crane operator in 1976 and Patricia earned approximately $5500 as a grocery store clerk.

Most of the household goods and appliances were awarded to Patricia, and the livestock, tools and machinery were awarded to Donald. No alimony was awarded to either party. Trial court found the farm was worth $180,000 less $12,000 expenses if the property was sold. The court decided to divide the balance of $168,000 equally between the parties and awarded an $84,000 judgment to Patricia. Donald asserts that this judgment is inequitable because the farm was not acquired by the efforts of both parties, the fair market valuation of $180,000 was erroneous, and trial court ignored the income tax consequences of a sale of the farm.

Our review of the property settlement is de novo. In re Marriage of Fisher, 237 N.W.2d 452, 453 (Iowa 1976). We apply all the criteria, except fault, enumerated in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968). Evidence establishes that the amount contributed by Donald's father toward the purchase of the farm was meant to be a gift to Donald, Patricia and their children. Through the joint efforts of Donald and Patricia, interest payments and improvements to the property were made. In view of the conflicting testimony presented, we think a valuation of the farm at $180,000 was reasonable. We conclude, therefore, that the evidence justifies an award of $84,000 to Patricia. This amount shall be paid to Patricia by March 1, 1979. Donald, however, shall have the option to elect to sell the farm by March 1, 1979, and divide the net proceeds equally with Patricia. If the parties are unable to agree on the reasonableness of the sale price or the efforts made to sell the property, either may petition the District Court of Linn County,

Iowa, who shall appoint a receiver to conduct the sale. The combined increase in the federal and state income tax liability of the parties from the sale of the property shall be paid from the proceeds of the sale. After payment of the real estate taxes due at the time of the sale, federal and state income taxes and the costs of the sale, the net proceeds shall be divided equally between the parties.

Affirmed as modified.