IN THE COURT OF APPEALS OF IOWA

No. 0-177 / 99-1082
Filed July 12, 2000

IN RE THE MARRIAGE OF KEVIN ALLEN ANDERSON AND RAMONA RUTH ANDERSON

FILED
JUL 1 2 2000
CLERK SUPREME COURT

Upon the Petition of
KEVIN ALLEN ANDERSON,
Petitioner-Appellee,

And Concerning.
RAMONA RUTH ANDERSON,
Respondent-Appellant.

Appeal from the Iowa District Court for Boone County, Dale E. Ruigh, Judge.

Ramona Ruth Anderson appeals from the court's dissolution decree. **AFFIRMED.**

Tom Whitney of Tom Whitney Law Offices, Des Moines, for appellant.

Loren A. Nalean of Nalean & Nalean, Boone, for appellee.

Considered by Sackett, C.J., and Huitink and Vaitheswaran, JJ.

VAITHESWARAN, J.

In this appeal from a dissolution decree, Ramona Anderson challenges the district court's property distribution. We affirm.

I. Background Facts and Proceedings

Ramona and Kevin Anderson married on August 30, 1990. At the time of trial, Kevin was 39 and Ramona was 45. No children were born to the marriage. From April through December of each year, Kevin worked as an underground utility foreman. During the off-season, he operated an auto body repair shop at his Boone home. Ramona worked full-time as a fork truck operator.

The parties' dispute centers on two pieces of real estate, one on Eleventh Street in Boone and the other a rural acreage known as "the pond property." Kevin bought the Eleventh Street property before the marriage. He made a $1000 downpayment and signed a contract to pay the $24,000 balance in monthly installments of $275. Both parties contributed to the payments on this house. In approximately 1992, Kevin added Ramona as a joint owner of the property. At the time of trial, the assessed value of the property was $39,552. An appraiser retained by Ramona testified the property's value was $37,000.

In 1990, just prior to her marriage, Ramona bought the pond property in consultation with Kevin. She used $10,000 in inherited funds and $5000 in borrowed funds. Less than two months after the marriage, Ramona added Kevin as a joint owner of this property. Subsequently, the parties made substantial improvements to the property.

In September 1993, as their relationship deteriorated, the parties signed an agreement governing division of assets in the event of dissolution of marriage,

which they deemed valid for three years. Under the agreement, Kevin was to receive the Eleventh Street property and Ramona the pond property. Ramona does not contest the district court's conclusion that the agreement is no longer binding on the parties, is of questionable validity in any event, and is of little value, given that the pond property changed substantially after 1993.

In May 1998, Kevin sought a divorce. Following trial, the district court dissolved the marriage and awarded Kevin the acreage and Ramona the Eleventh Street property. Ramona filed a Rule 179(b) motion for enlarged findings and conclusions which the court denied. This appeal followed.

II. Standard of Review

We review dissolution of marriage decrees de novo. *In re Marriage of Knickerbocker*, 601 N.W.2d 48, 50 (Iowa 1999). We review the entire record and adjudicate rights anew on issues properly presented. *In re Marriage of Smith*, 573 N.W.2d 924, 926 (Iowa 1998). While we give weight to the district court's fact findings, especially with respect to credibility determinations, we are not bound by them. *Knickerbocker*, 601 N.W.2d at 51.

III. Property Distribution

The parties to a marriage are entitled to a just and equitable division of property accumulated through joint efforts. *In re Marriage of Siglin*, 555 N.W.2d 846, 849 (Iowa App. 1996). Assets and debts should be divided equitably, but not necessarily equally upon consideration of the criteria listed in Iowa Code section 598.21(1) (1997). *In re Marriage of Bonnette*, 584 N.W.2d 713, 714 (Iowa App. 1998).

A. Pond Property. Ramona's primary contention on appeal is that the district court should have awarded her the pond property because it was purchased primarily with inherited funds. The court stated its distribution would "allow both parties to have a suitable residence and provide a proper place for Kevin's auto body repair business" and would "facilitate an equitable division of the parties' entire marital net worth, including, but not limited to, the real estate." We agree with the district court.

Inherited property is not subject to distribution unless failure to do so would result in inequity. *See* Iowa Code § 598.21(2); *In re Marriage of Steele*, 502 N.W.2d 18, 20 (Iowa App. 1993). We believe equity requires distribution of the property to Kevin. Kevin testified Ramona paid for the land to offset $15,000 he spent on the Eleventh Street property. Additionally, Kevin invested substantial amounts of time, money, and labor in the pond property. He bought a mobile home that was placed on the land, provided materials and labor to renovate the home, and built a garage, shed, and large building to accommodate his auto body repair business.

The record also reflects Kevin needed the pond property to conduct his auto body repair business. Boone's zoning administrator testified, albeit equivocally, that the presence of Kevin's auto body repair business on the Eleventh Street property was in violation of the zoning ordinance for that neighborhood. Further, Kevin's own testimony unequivocally established that his shop was not a hobby, as Ramona contends, but an expanding business. His gross income from the business increased over the years from $1500 to $6363 in 1997 and Kevin estimated it would increase to between $20,000 and $30,000 a

year in future years. He also testified he did most of the work for one of the local car dealers and had regular commercial customers. We conclude the district court acted equitably in awarding the pond property to Kevin.

Ramona also contends the district court's valuation of the pond property was not supported by the record. As its valuation affected distribution of the parties' remaining assets, we will examine this issue. Relying on county assessor records, the court valued the property at $65,000. The court found an appraisal of $79,000 by Ramona's expert witness was "unrealistically high," given that the witness: (1) did not see the inside of the buildings; (2) did not account for the effect of a neighboring feedlot; (3) did not use similar "comparables;" and (4) may have allowed his fond memories of the lot to color his view of the value. We agree with these findings. The assessor's records valued the land at $21,250, and improvements excluding the building at $16,558. Additional records valued the building at $28,280. These figures total $66,088. Therefore, there was ample record evidence to support a valuation of $65,000.

B. Cars. Ramona next contends the district court inappropriately included in the pool of marital assets subject to distribution a (1) 1975 Chevrolet Chevelle car which she received in the distribution and (2) a 1988 Pontiac car which she also received. She asserts she bought the first car before her marriage to Kevin and the second was gifted to her during the marriage. With respect to these cars, the district court stated as follows:

> Ramona owned a 1975 Chevrolet Chevelle before the parties' marriage. The only evidence of its value is Kevin's estimate of $5000. Ramona offered no value for the vehicle, because she believes that premarital assets automatically must be awarded to the party who owned them before the marriage. During the parties' marriage, Kevin bought a 1988 Pontiac for Ramona's use. Ramona

> contends that the car was a gift excludable from division under Iowa Code section 598.21(2). The circumstances of the vehicle's purchase indicate, however, that the car was purchased with marital funds for Ramona's use. Equity demands that this vehicle be considered part of the marital net worth, along with all of the other vehicles acquired during the marriage.

The record supports the district court's conclusion that the 1988 Pontiac was acquired during the marriage and, accordingly, should have been included in the net worth. With respect to the Chevelle, there is no dispute that Ramona acquired the car before the marriage. However, we conclude it would be inequitable to exclude that car from the net worth in light of Kevin's testimony that he and Ramona restored the Chevelle from its original condition. We affirm the district court's property distribution in its entirety.

AFFIRMED.