IN THE COURT OF APPEALS OF IOWA

No. 2-067 / 90-1865

FILED
SEP 29 1992
CLERK SUPREME COURT

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THOMAS C. FRITZSCHE,

Appellant,

vs.

KARYN L. FRITZSCHE,

Appellee.

IN RE THE MARRIAGE OF KARYN L. FRITZSCHE AND THOMAS C. FRITZSCHE

Upon the Petition of

KARYN L. FRITZSCHE,

Appellee,

And Concerning

THOMAS C. FRITZSCHE,

Appellant.

Appeal from the Iowa District Court for Scott County, James Havercamp, Judge.

Thomas Fritzsche appeals a trial court judgment concerning his claims for rent from Karyn Fritzsche holding over on his property, abatement of alimony based on the terms of the dissolution decree, and sanctions concerning pretrial discovery. **AFFIRMED.**

Thomas C. Fritzsche, Bettendorf, pro se, appellant.

Karyn L. Fritzsche, Davenport, pro se, appellee.

Considered by Schlegel, P.J., and Hayden and Habhab, JJ.

HABHAB, J.

FACTS

Thomas and Karyn Fritzsche were divorced in April 1987. The dissolution decree ordered Thomas to pay Karyn $200 per month in alimony until either party dies, Karyn remarries, becomes self-supporting, cohabits with a male, or for a period of three years, whichever occurs first. The decree also stated the marital residence would be placed for sale if the parties were unable to reach an agreement to maintain it. Karyn and the children were allowed to remain in the home until it was sold.

Prior to the final decree, Thomas sought to purchase Karyn's interest in the marital home. On August 15, 1987, Karyn moved from the house. In August 1989 the parties entered into an agreement indicating the deed to the home was transferred to Thomas as of March 31, 1987. However, Karyn claimed Thomas agreed to let her remain in the home until June 1987, when the school year ended.

Thomas filed a petition claiming he was entitled to recovery of an occupancy fee for Karyn's holding over at the home from March through August 1987 and for an abatement of alimony because Karyn allegedly had become self-supporting and was cohabiting with a man. Prior to trial, Thomas filed several requests for discovery which he felt were not complied with.

The case eventually proceeded to trial. On September 25, 1990, the court ordered Karyn to pay Thomas

an occupancy fee of $500 per month for holding over in the home from June 15, 1987, until August 15, 1987. After determining Karyn was neither self-supporting nor cohabiting prior to April 1990, the alimony cutoff date, the court denied Thomas's claim for abatement or reimbursement of alimony. It also denied Thomas's claim for sanctions arising out of discovery. Thomas filed this appeal. We affirm.

SCOPE OF REVIEW

Our review in cases such as these is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We are not bound by these determinations, however. Id. Prior cases have little precedential value, and we must base our decision primarily on the particular circumstances of the parties presently before us. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983).

ANALYSIS

I. Occupancy Fee.

Thomas argues he is entitled to an occupancy fee of $600 per month for the period of April 1, 1987, until August 15, 1987. This is the time frame Karyn allegedly held over in the home after the property was transferred to Thomas by deed. We disagree.

The trial court ordered Karyn to pay Thomas an occupancy fee of $500 per month for holding over in the

home from June 15, 1987 (the end of the school year), until August 15, 1987. It held Thomas's claimed occupancy fee of $600 per month from April 1, 1987, until August 15, 1987, was unreasonable and not agreed to by the parties. The court additionally concluded the parties agreed that Karyn and the children were to stay in the house until the school year ended in June 1987. We give deference to the fact findings of the trial court. We agree Thomas is only entitled to an occupancy fee for the period of June 15, 1987, until August 15, 1987. We affirm the trial court on this issue.

II. Alimony.

Thomas argues he is entitled to an abatement or reimbursement of alimony because Karyn was allegedly self-supporting and cohabiting with a man, both grounds for discontinuing alimony payments under the decree. We disagree.

The dissolution decree ordered Thomas to pay Karyn $200 per month in alimony until either party dies, Karyn remarries, becomes self-supporting, cohabits with a male, or for a period of three years, which ever occurs first. The court concluded Karyn was not self-supporting on August 15, 1987, because her net monthly income after rent was $1100, which the court found to be less than her income at the time alimony was awarded. The court additionally found Karyn was neither self-supporting nor cohabiting prior to April 1990, the alimony cutoff date, and,

consequently, denied Thomas's claim for abatement or reimbursement of alimony. From our de novo review of the record, we are unable to conclude Thomas is entitled to abatement or reimbursement of alimony. We affirm the trial court on this issue.

III. Sanctions.

Thomas argues the trial court abused its discretion by failing to award sanctions against Karyn for failing to comply with discovery requests. We disagree.

The trial court denied Thomas's motion for sanctions against Karyn for failure to comply with the court orders of February 22, 1990, and June 4, 1990. It found the orders were improvidently granted and all information required by those orders was developed and introduced at trial. We conclude the trial court did not abuse its discretion in denying Thomas's motion for sanctions. We affirm the trial court on this issue.

CONCLUSION

After considering all issues presented, we affirm the trial court.

Costs of this appeal are taxed to the appellant.

AFFIRMED.