State Law Lib

FILED
SEP 21 1982
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF YON HUI SHEETS AND RALPH E. SHEETS, JR.

106

Upon the Petition of)

YON HUI SHEETS,)

Petitioner-Appellee,) Filed September 21, 1982

And Concerning)

RALPH E. SHEETS, JR.,) 2-217 / 3-67099

Respondent-Appellant.)

Appeal from Polk District Court - Van Wifvat, Judge.

Respondent husband appeals from the decree dissolving the parties' marriage, asserting that (1) the property division, alimony and child support provisions are inequitable; and (2) the best interest of the parties' daughter would be served if custody were awarded to respondent husband. AFFIRMED BY OPERATION OF LAW PURSUANT TO IOWA CODE § 684.36(1) (1981).

Ray Sullins of Roehrick, Lavorato, Schuster, Hassell & Sullins, Des Moines, for respondent-appellant.

J. Blaine Phipps, Des Moines, for petitioner-appellee.

Considered en banc.

PER CURIAM

This appeal has been considered by four judges of the court. On this de novo review all members of the court find the support awards appropriate and the property division equitable under the circumstances existing at the time of the decree.

On appeal of the child custody provisions, however, two judges would affirm and two judges would reverse the trial court's custody award of the parties' child to the mother. The judges of this court being equally divided on this issue, the trial court's award of custody to the mother is affirmed by operation of law pursuant to Iowa Code § 684.36(1) (1981).

AFFIRMED.