FILED
AUG 27 1992
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-095 / 91-1187

IN RE THE MARRIAGE OF THOMAS LYNN LEVSEN AND GWENDOLYN LEE LEVSEN

Upon the Petition of

THOMAS LYNN LEVSEN,

Petitioner-Appellee/Cross-Appellant,

And Concerning

GWENDOLYN LEE LEVSEN,

Respondent-Appellant/Cross-Appellee.

Appeal from the Iowa District Court for Jones County, William L. Thomas, Judge.

Both parties have appealed from a dissolution decree, challenging its economic provisions. **AFFIRMED AS MODIFIED AND REMANDED.**

William B. Norton, Lowden, for appellant/cross-appellee.

Jay A. Willems of Remley, Willems & McQuillen, Anamosa, for appellee/cross-appellant.

Considered by Oxberger, C.J., and Donielson and Habhab, JJ.

OXBERGER, C.J.

Thomas and Gwendolyn Levsen were married in 1971. They have two children; Shannon, born May 1975 and Lisa, born May 1978.

"Tom" is a self-employed farmer. He owns seventy seven acres of land and rents another 370 acres from relatives. He also owns machinery, grain, and livestock. He has substantial farm-related debt. He asserts his debts exceed his assets. Gwen suggests many of his claimed debts are not real obligations because they are owed to his parents.

Tom's farm income fluctuates. His average annual income for the past three years is $29,711.00.

Gwen has been employed for most of the marriage. She presently earns approximately $18,000 per year.

The marriage was dissolved on May 10, 1991. A ruling on posttrial motions, clarifying the division of property and debts, was entered on July 3, 1991.

The dissolution decree placed the parties' two children in joint legal custody and joint physical care. These custody provisions are not challenged in this appeal.

The decree awarded Tom the farm-related assets, subject to the farm-related debt. The decree granted Gwen a cash property award of $10,000, payable in installments, her employment-related savings plan valued at $3000, and her pension plan with no present value. Gwen received a newer car subject to a substantial encumbrance.

In considering child support, the district court noted the parties have joint physical care and found similar average incomes. The court noted that Tom has free housing on the farm while Gwen must pay for housing. Accordingly, the court ordered Tom to pay Gwen child support of $25 per week, characterizing it as a housing allowance.

Gwen has appealed from the dissolution decree, and Tom has cross-appealed.

Gwen contends she should receive more child support and a larger property award. In requesting a larger property award, she argues the district court under- valued Tom's farm assets and overstated Tom's farm- related debts.

Tom, in his cross-appeal, contends the $10,000 cash property award to Gwen should be eliminated. He argues the district court over-valued his farm assets, understated his debt load, and improperly treated certain gifted farm assets as marital property subject to division.

Tom contends Gwen should not receive child support. He asks both parties to contribute cash into separate accounts for each girl to cover clothing and other minor expenses.

Scope of Review

In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of

witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

I. Child Support

The trial court awarded child support of $25.00 per week, characterizing it as a housing allowance. The court reasoned the parties had similar incomes, based on a five year average, would equally share in the physical care of the children, but had different housing expenses.

We disagree with the trial court's computation of child support. It is well-settled that both parents have an obligation to contribute to their children's support not necessarily equally but in accordance with their ability to pay. In re Marriage of Byall, 353 N.W.2d 103, 108 (Iowa App. 1984). The fact that a parent has responsibilities for the children half of the time and currently contributes a substantial amount toward their support does not relieve further support obligations. State ex rel. Greenshaw v. Stewart,435 N.W.2d 749, 751 (Iowa App. 1988).

In split custody arrangements the trial court must calculate the amount of child support from each parent while assuming the other parent is the non-custodial parent. In re Marriage of Hansen, 465 N.W.2d 906, 911 (Iowa App. 1990). The court noted the supreme court's intent to tie support obligations to a parent's ability to pay, even when each parent retains physical custody of the same number of children. Id. at 910. We find a joint physical care arrangement substantially similar to a split

custody arrangement for purposes of allocating child support. In this case, child support must be determined by calculating the amount of support from each parent while assuming the other parent is the non custodial parent, utilizing the uniform guidelines established by the supreme court.

In order to determine child support according to the guidelines, we must determine each parent's ability to pay. The trial court averaged each parents annual income for the past five years. We do not find that to be an accurate representation of Tom's income. He had income in the fourth and fifth years. There were special usual circumstances that make those years inappropriate to us.

To establish a monthly income for a self-employed person or one who has fluctuating monthly income, it generally is best to use an average of income from a period that accurately reflects the fluctuations in income. A farmer produces commodities that fluctuate in value. Production may vary because of weather conditions. Farm programs have a substantial impact on the farmer's net income. These factors generally require a farmer's net monthly income be determined from an average of twenty four to thirty six months' income.

We do not have sufficient information in the record before us to accurately determine the parties average income for the past three years. We remand this issue for determination consistent with these directions.

II. Expenses

Tom complains the trial court failed to allocate distribution of the children's school expenses between the parties. We adopt Tom's recommendation that each parent pay a predetermined cash amount to a separate account for each child to cover such expenses. Both girls are at an age to benefit from the responsibility of a bank account, as long as they receive parental supervision. We do not have sufficient information in the record before us to determine the amount needed to cover such expenses. We remand this issue for determination by the district court.

III. Property Distribution

Both parties complain of the equity of the property distribution. We find the value placed on the assets by the trial court to be well within the permissible range of evidence and will not disturb them on appeal. See In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). Accordingly, we affirm the property distribution determined by the district court. We do not retain jurisdiction.

AFFIRMED AS MODIFIED AND REMANDED.

Donielson, J., concurs; Habhab, J., dissents.

HABHAB, J. (dissenting)

I respectfully dissent. I would affirm the trial court in all respects.