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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

JUDITH M. THODE,

Petitioner-Appellant,

vs.

JOHN D. THODE,

Respondent-Appellee.

Filed October 27, 1981

1-348
2-66324

Appeal from Black Hawk District Court - Dennis D. Damsgaard, Judge.

Petitioner-wife appeals from economic provisions of the parties' dissolution decree asserting that she should have received more cash for the division of personal property, a larger share of equity in the family home, and attorney's fees. AFFIRMED.

Gaylen V. Hassman of Engelbrecht, Ackerman & Hassman, Waverly, Iowa, for petitioner-appellant.

Jon Fister of Beecher, Beecher, Holmes & Rathert, Waterloo, Iowa, for respondent-appellee.

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

PER CURIAM

Petitioner-wife appeals from economic provisions of the parties' dissolution decree asserting that she should have received more cash for the division of personal property, a larger share of equity in the family home, and attorney's fees. We affirm the trial court's award.

Judith and John Thode were married June 23, 1972. Each had one child from a previous marriage, but none from this marriage. In the dissolution decree entered January 13, 1981, the court denied alimony and attorney's fees to both parties and determined the method for the distribution of the remaining asset, the family home. Each received a $12,579.17 share of equity in the home, but John was awarded an additional $28,000 representing the percentage of the cash he had advanced originally toward the purchase of the house. Although Judith raises several issues on appeal, other than her contention regarding personal property settlement and attorney's fees, she essentially challenges the method by which the trial court valued the house and ordered the proceeds distributed. We review these claims **de novo**. Iowa R. App. P. 4; In re Marriage of Joens, 284 N.W.2d 326, 327 (Iowa 1979).

I. Judith contends that the value of the home should have been greater, a real estate commission should not have been deducted when there was no proof of one, John's cash advance for the home's purchase was smaller than found by the court and only the actual amount of this advance, not the percentage it represented to the total value of the home, ought to have been setoff to John's share, and the mortgage should have been charged against the value of the house as a whole instead of against part of the equity. Had Judith's methods been followed by the court, she would have received an award of $30,863.53 rather than the $12,579.17 given to her by the trial court.

We think the procedure followed by the trial court was a fair and equitable division which paid deferance to the financial input of both parties, their relative efforts during the marriage, and the right each had to share equally in the increase in value of the home that occurred during the marriage. See section 598.21, The Code. While a property division must be equitable, it need not be accomplished with mathematical certainty. In re Marriage of Andersen, 243 N.W.2d 562, 564 (Iowa 1976). Properly adopting a figure somewhat between the figure offered by each party's expert as to the home's value, the court found the present value of the home to be $98,000.00. The initial purchase price was $48,900.00; John furnished $20,900.00 as a down payment which constituted 42.75% of the value of the house. The court deducted from the

$98,000.00 figure a standard 7% commission for selling the house, deducted John's percentage which amounted to $38,962.35, subtracted the mortgage of $27,019.30 still owed, and divided the remaining balance of $25,158.35 equally between John and Judith. We approve the distribution by the trial court and find no reason to disturb it.

II. Judith also challenges the failure of the trial court to order John to pay an unspecified cash amount to Judith to compensate her for the difference in value of personal property retained by each. Apparently a pretrial stipulation and agreement was reached to this effect, and the trial court incorporated the stipulation by reference in its decree. However, on appeal, Judith neither sets out an amount owed to her by John nor advances an authority for her contention. Furthermore, the pretrial report indicates that, at trial, the sole contention was to be over the value of the house. Consequently, the record and brief do not provide us with any reason to interfere with this part of the court's treatment of the pretrial stipulation.

III. Judith also requests attorney's fees both for trial and on this appeal. John has requested payment of his fees for this appeal. Attorney's fees are not recoverable as a matter of right but may be awarded within the court's discretion. In re Marriage of Winegard, 278 N.W.2d 505, 512 (Iowa 1974). We have examined each party's respective financial position and have decided that Judith and John should each be responsible for his or her own attorney's fees.

We have considered all of the issues raised and affirm the trial court.

AFFIRMED.