

IN THE COURT OF APPEALS OF IOWA

FILED

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CLERK SUPREME COURT

IN RE MARRIAGE OF MARILYN IHNS and DELBERT IHNS

238

Upon the Petition of
MARILYN IHNS,

)

Filed February 26, 1985

Petitioner-Appellant,

)

5-20
84-183

And Concerning
DELBERT IHNS,

)

Respondent-Appellee.

)

Appeal from the Iowa District Court for Howard County - C. W. Antes,
Judge.

Petitioner appeals challenging the property division made by the trial court
in her dissolution. AFFIRMED AS MODIFIED.

Dennis G. Larson, Decorah, for petitioner-appellant.

Robert H. Story, of Anderson & Story, Cresco, for respondent-appellee.

Considered by Oxberger, C.J., and Hayden and Sackett, JJ.

Petitioner appeals challenging the property division made by the trial court in her dissolution.

Marilyn and Delbert were married in 1957. They had six children. Five of the children are living and are now over 18 years of age.

Delbert had a seventh grade education and was the tenant on Marilyn's parents' farm when the parties were married. Marilyn at that time had completed three years at Luther College. Delbert continued to farm Marilyn's parents' land during the marriage. Marilyn was an only child and when her mother died in 1972 she inherited the land and some cash. At the time of trial Marilyn owned 438 acres of land which she had inherited.

Delbert and Marilyn owned 80 acres jointly. In addition thereto the parties had certain farm commodities and machinery and some debt. The trial court divided the personal property and indebtedness; awarded Delbert the jointly held 80 acres and an additional 80 acres of the land Marilyn had inherited. The balance of Marilyn's real estate was awarded to her.

During the marriage Marilyn assumed the majority of the custodial responsibility for the children. Delbert farmed. All the farm income was credited to him for self-employment purposes. Delbert has a disability for which he receives a monthly Veteran's benefit of \$160. Marilyn wants to complete her education.

Marilyn claims that her inherited property should have been set aside to her and that she should have received a larger share of the marital assets.

In our de novo review we consider the property award as a whole. The fact that Delbert farmed Marilyn's inherited land during the marriage, that he had a good relationship with Marilyn's mother, that he has a limited education and knows no occupation but farming, that he has a physical disability, that the marriage lasted for 24 years, makes an award to Delbert of a portion of Marilyn's inherited property equitable. See In Re Marriage of Thomas, 319 N.W.2d 209, 211 (Iowa 1982).

Marilyn is entitled to share in the jointly acquired assets. She was married for 24 years, left the job market for that time, paid no social security in her own right and assumed custodial responsibility for the children. These facts all bear on her entitlement to an equitable share of the jointly acquired property. See \$598.21(1).

Therefore, we find Delbert is entitled to 40 acres of the jointly owned property and 40 acres of the inherited property; Marilyn is entitled to 40 acres of the jointly owned property and the remaining inherited property. However to avoid division of the parcels of real estate, we affirm the trial court's award of the 80 acres of jointly owned property to Delbert in satisfaction of his equitable share, and modify the award to order that Marilyn receive all the inherited property as her equitable share.

AFFIRMED AS MODIFIED.