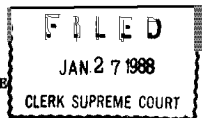


IN THE COURT OF APPEALS OF IOWA
IN RE THE MARRIAGE OF STEVEN GILLASPIE
AND SANDRA GILLASPIE



Upon the Petition of	)	
STEVEN GILLASPIE,	)	73
Petitioner-Appellee,	)	Filed January 27, 1988
And Concerning,	)	7-332
SANDRA GILLASPIE,	)	<u>86-1445</u>
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Louisa County (No. D-794), Harlan
W. Bainter, Judge.

The respondent appeals certain provisions of a decree of dissolution entered
in the district court. **AFFIRMED.**

David D. Reineke of Iowa City for respondent-appellant.

Steven R. Hahn of Ruther, Bauer, Schulte, Hahn, Swanson & Crowley,
Burlington, for petitioner-appellee.

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

OXBERGER, C.J.

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Respondent Sandra Gillaspie challenges the decree dissolving the parties' marriage. She specifically challenges the economic provisions of the decree. We affirm as modified.

We review this equitable proceeding de novo. Iowa R. App. P. 4. We give weight to the trial court's finding of facts, especially where the credibility of witnesses is involved, but are not bound by them. Iowa R. App. P. 14(f)(7).

Sandra's first contention is that the trial court erred in failing to find her sister owned \$5,000 in a savings account kept in Sandra's name. She argues the trial court incorrectly included this amount in the marital property while fashioning the property settlement. We disagree.

Prior to the dissolution, Sandra removed \$9,000 from one of the parties' bank accounts and transferred it to another account. She gave her sister \$5,000 of this because Sandra claims it was her money. The trial court determined Sandra was entitled to the entire account as reimbursement for property she brought into the marriage regardless of how she disposed of the funds.

Sandra testified her sister gave her this money to keep because she had difficulty saving money. Steve Gillaspie testified that he was unaware that there was money in the account that belonged to Sandra's sister. He also indicated Sandra was being untruthful. No other evidence was presented. This issue was entirely dependent upon the credibility of the witnesses. The trial court had the opportunity to view the witnesses and was in the best position to determine which testimony was more credible. In re Marriage of Urban, 359 N.W.2d 420, 423-24 (Iowa 1984). In the absence of additional evidence, we find no basis to disturb the trial court's decision.

Sandra's second contention is that the trial court erred by failing to set aside an account containing \$3,000 reserved for the children's college education. We disagree.

The parties agree the money was set aside for the children's education. The money, however, was placed in an account that Sandra controls without restrictions. Because the children do not have control of the money, we cannot conclude the money was a gift to the children. Parents often set money aside for their children's education, but life's unexpected problems often necessitate these funds be used for other purposes. Although Sandra has control of the money, there is no guarantee the money will be used for the children's education. Because the parents did not take further measures to restrict the funds, we conclude the account was properly considered a marital asset.

We must now consider whether the property settlement was equitable to Sandra. We conclude it was. The parties' assets are limited and there are several individual assets included. Iowa law does not require there be a strict mathematical division of the marital assets. In re Marriage of Stewart, 356 N.W.2d 611, 612 (Iowa App. 1984). The division in this case is very close with Sandra receiving a large amount of liquid assets. We find nothing inequitable in the settlement under the circumstances in this case.

Sandra's final contention is that the trial court erred in awarding the parties' GMC truck to Steve. She argues she should be given the truck in order to fully compensate her for property she brought into the marriage.

Sandra owned a trailer home which she brought into the marriage. She sold this trailer home and used the proceeds to purchase a truck. This truck was then traded in for the GMC truck. By selling the trailer home and applying the proceeds to the purchase of marital assets, Sandra has converted her individual asset into a marital asset. This marital asset is properly subject to division by the trial court. See In re Marriage of Butler, 346 N.W.2d 45, 47 (Iowa App.

1984). We order both parties to take appropriate action in order to give each other a clear and unencumbered title to the property distributed to the other spouse. The record reveals the trial court considered all the assets, individual and marital, in determining how the property should be distributed. Again, we find the settlement to be equitable and have no basis to disturb the trial court's decision.

AFFIRMED.