FILED
AUG 26 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF GRACE E. PRUSS AND FRANCIS J. PRUSS

Upon the Petition of	)	254
GRACE E. PRUSS,	)	Filed August 26, 1987
Petitioner-Appellee,	)	
And Concerning	)	
FRANCIS J. PRUSS,	)	7-293 86-1664
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Linn County (12579) - William L. Thomas, Judge.

Respondent husband appeals the decree dissolving the parties' marriage.

AFFIRMED AS MODIFIED.

Francis J. Pruss, Cedar Rapids, pro se.

T. Todd Becker, Cedar Rapids, for appellee.

Considered by Donielson, P.J., and Schlegel and Sackett, JJ.

PER CURIAM

Respondent husband appeals the decree dissolving the parties' almost eighteen year marriage. On appeal, respondent asserts that: (1) the district court erred in placing the primary care of the minor child, Sharon, with petitioner wife; (2) the district court erred in making an inequitable division of the property of the parties; (3) the district court erred in awarding $1,000 month as alimony and $500 per month as child support to petitioner; and (4) the district court erred in awarding petitioner attorney's fees.

Our scope of review is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7). Upon careful review of the record and exhibits of this case, we believe the district court was correct in its decree regarding child custody, distribution of the property, alimony, and child support. We also believe that respondent should be ordered to pay $3,000 of the attorney's fees incurred by petitioner. We therefore affirm and modify the award of attorney fees.

I. Primary Custody of Child. Respondent argues that he should have primary custody of the minor child, Sharon. In deciding questions of child custody, paramount consideration must be given to the best interest of the child. Iowa R. App. P. 14(f)(15). The factors upon which this determination is predicated are set forth in section 598.41(3) of the Iowa Code. For the following reasons, we believe the district court correctly found that it would be in Sharon's best interest for petitioner to have primary physical custody: Sharon has a much better relationship with her mother than with her father; Sharon clearly expressed a preference to live with her mother; respondent has had little experience as Sharon's primary caretaker; respondent tends to be argumentative and overly critical of Sharon.

II. Division of Property. Respondent asserts that the division of the parties' property was inequitable. The factors we consider in reviewing a property distribution are set forth in section 598.21(1) of the Iowa Code. After carefully examining the record and exhibits in light of these factors, we conclude that the district court's property division was equitable and fair.

III. Alimony and Child Support. Respondent argues that the alimony and child support awards were excessive. A determination of alimony is based on the respective earning capacities and needs of the parties. In re Marriage of Hitchcock, 309 N.W.2d 432, 436-37 (Iowa 1981). Factors to consider are found in section 598.21(3) of the Iowa Code. Based on our review of the evidence and the applicable principles of law, we believe that the alimony award to petitioner was not excessive. Considering her lack of earning capacity, it is a just amount to allow petitioner to continue living in a manner comparable to her marriage. See In re Marriage of Hayne, 334 N.W.2d 347, 351 (Iowa App. 1983).

In addition, we believe that the district court's child support award was not excessive. The factors governing the proper amount of child support to be awarded are set forth in section 598.21(4) of the Iowa Code. After considering the finances and obligations of both parties, we conclude that the child support award is necessary and reasonable.

IV. Attorney's Fees. Respondent contends that he should not have to pay any of petitioner's attorney's fees. The primary considerations in awarding attorney's fees are the needs of the requesting party and the ability of the other party to pay. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa App. 1981). Factors to consider in determining the amount of the award include the complexity of the case and the extent of the work performed by the attorney. See In re Marriage of Jennerjohn, 203 N.W.2d 237, 245 (Iowa 1972). The district

court ordered respondent to pay $2,000 of petitioner's attorney's fees. In light of respondent's ability to pay, the evidence of his extensive recalcitrance in following various orders of the district court (which caused petitioner's attorney's fees to increase), we believe the trial court's allowance of additional fees was proper. We believe respondent should pay $1,000 of petitioner's attorney's fees on appeal.

AFFIRMED AS MODIFIED.