

IN THE COURT OF APPEALS OF IOWA

FILED

JAN 24 1984

CLERK SUPREME COURT

58

IN RE THE MARRIAGE OF WILLIAM L. HITESMAN AND CAROL J. HITESMAN

Upon the Petition of)

WILLIAM L. HITESMAN,)

Petitioner-Appellant,)

Filed January 24, 1984

And Concerning)

CAROL J. HITESMAN,)

3-444
83-864

Respondent-Appellee.)

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

Husband appeals from the decree dissolving the parties' marriage, challeng-
ing the visitation schedule and the division of property. AFFIRMED AS
MODIFIED.

Richard D. Zahasky of Isadore Meyer & Associates, Decorah, for petitioner-
appellant.

Marion L. Beatty of Miller, Pearson, Gloe, Burns & Beatty, P.C., Decorah,
for respondent-appellee.

Considered by Oxberger, C.J., and Snell and Schlegel, JJ.

William L. Hitesman and Carol J. Hitesman were married in 1978. Both are now in their early thirties. They have one daughter, Nicole, born in October 1981. Carol's daughter, Tami, from a previous marriage also lived with the parties. Both parties were employed throughout the marriage. William is an admissions counselor at a technical school; he earns approximately \$17,000 per year. Carol is a secretary earning about \$10,000 per year. Carol is also entitled to child support of \$160 per month from her first husband.

The trial court placed the parties' child in joint legal custody and provided that the child would reside with Carol. The trial court provided a detailed schedule for William's visitation rights. The trial court also specified the visitation rights of William's parents, who had intervened in the dissolution proceeding to ask for visitation rights.

The parties' primary asset was a house valued at \$52,500 but subject to a mortgage debt of \$33,700 and a debt of \$7,000 to William's parents. The trial court provided that each party would own a half interest in this house, with Carol entitled to live in the house until she remarries or until the parties' child reaches the age of eighteen or ceases to live in the house. When the first of these conditions is met, the house is to be sold and the net proceeds divided evenly between the parties. The court provided that William is to make all the mortgage payments until Carol remarries or until the parties' child reaches the age of eighteen or ceases to live in the house.

Each party was awarded personal effects and a car. William was directed to pay child support of \$160 per month. Neither party was awarded alimony or attorney's fees.

William has appealed from the dissolution decree. He asks that his visitation schedule be expanded. He also asks that the division of property be altered to require Carol to provide half the mortgage payments on the house while she lives in it.

Our review is de novo. Iowa R. App. P. 4. We are not bound by the trial court's findings of fact, but we give them weight, especially with regard to the credibility of witnesses. Iowa R. App. P. 14(f)(7).

I. Visitation Rights. The trial court ordered that William is to have visitation with Nicole as follows:

every weekend; one weekend the visitations to be on Saturday, the other weekend visitation to be on Sunday, coinciding with the days that the older daughter [Tami] visits with her natural father. This visitation is to occur from 10:00 A.M. to 5:00 P.M. on alternating Saturdays and Sundays.

[Further, after Nicole] reaches the age of three years, that the visitation shall be from 5:00 P.M. on Saturday to 1:00 P.M. on Sunday, being one weekend, and the next weekend from 5:00 P.M. on Friday to 1:00 P.M. on Saturday, which will coincide with the visitation of Tami

The court ordered alternate holiday visitations and granted William two weeks of Nicole's summer vacation after Nicole turned three. William's parents also were given visitation rights every other Wednesday from 5:00 to 8:00 P.M., plus one week each summer. Presumably, William would be allowed to be present during Nicole's periods of visitation with William's parents.

William argues that this visitation schedule is insufficient. He claims that he should not have to wait until Nicole is three before he is allowed overnight visitation. He asserts the trial court contrived this schedule to make it convenient for Carol rather than to suit it to the best interests of the child.

We disagree. By arranging the visitation to coincide with Tami's visitation schedule, the court did what it could to encourage a sense of family camaraderie between Carol, Tami and Nicole. It allows them to go to worship services together on the day of the weekend the two girls aren't visiting their fathers. The court's decision not to allow overnight visits until Nicole is three was probably founded on the belief that a young child needs stability in her early years and overnight shuffling between parents might only confuse her. Although precedent is generally of little value in these types of cases, In re Marriage of Castle, 312

N.W.2d 147, 148 (Iowa 1981), by allowing William to be with Nicole one day or, soon, one overnight per week, the court was working in accord with the common practice of courts in granting the noncustodial parent visitation on alternate weekends. The schedule allows both parents some weekend time with Nicole. Therefore we affirm the trial court's schedule of visitation.

II. Property Distribution. William challenges the trial court's order which required him to make the house payments for the parties' former home, even though Carol resides in it. He claims this decision places an undue burden on his ability to pay and is contrary to the court's expressed intention to divide the assets equally between the parties.

In reviewing economic and property provisions of a dissolution decree, we consider all the provisions together as an integrated whole, see In re Marriage of McFarland, 239 N.W.2d 175, 179 (Iowa 1976), and the factors articulated in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), as modified in In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972) (fault for breakdown of marriage eliminated from Schantz factors), and the factors enumerated in Iowa Code section 598.21 (1983).

There is no requirement in a division of assets that parity between the parties be effected. In re Marriage of Schissel, 292 N.W.2d 421, 423 (Iowa 1980); In re Marriage of Conley, 284 N.W.2d 220, 223 (Iowa 1979). Even if the trial court's goal was to divide the assets equally, there is no requirement that the division be mathematically precise. Conley at 223. The test for an acceptable allocation of assets is whether the distribution constitutes an equitable and just award under the particular circumstances of the parties. Locke v. Locke, 246 N.W.2d 246, 251 (Iowa 1976); In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972); Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968).

In the instant case, in order to make the property division equitable we modify the trial court's decree regarding the disposition of the house. Because

William has a greater ability to pay for the house, he shall continue to make the mortgage payments. However, at the time when the house is sold, after the payments are made as set out in the decree, William shall be awarded interest, at the rate of 10 percent per annum, on half of the mortgage payments he made since the dissolution. He will further be awarded interest accrued on half the value of the house at the time of the dissolution; in other words, 10 percent per annum, accrued from the time of the decree, on \$26,250.

7 The remaining property disposition stands.

AFFIRMED AS MODIFIED.