

FILED

APR 29 1980

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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF KAREN LEE RENKEN AND VICTOR EUGENE RENKEN

Upon the Petition of)

KAREN LEE RENKEN,)

Filed April 29, 1980

Petitioner-Appellee,)

And Concerning)

VICTOR EUGENE RENKEN,)

0-56
2-63418

Respondent-Appellant.)

Appeal from Woodbury District Court - M. L. Mason, Judge.

Respondent-husband appeals property division of dissolution decree. -

AFFIRMED.

Daniel C. Galvin, of O'Brien & Galvin, Sioux City, for respondent-appellant.

Robert W. Green, of Jacobs, Gaul, Nymann & Green, Sioux City, for petitioner-appellee.

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

PER CURIAM

Respondent-husband Victor Eugene Renken appeals from the trial court's property division of the decree dissolving his marriage to petitioner-wife Karen Lee Renken. Victor contends that the property division was inequitable and unduly burdensome in light of his obligations as the custodial parent of the parties' two minor children. We affirm.

Our review is de novo. Iowa R. App. P. 4. We give weight to the trial court's findings of fact, especially regarding the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7). In reviewing the property division of a dissolution decree, we apply the factors enunciated in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), except fault. In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972).

Victor and Karen were married on March 26, 1966. Victor brought \$6000 and a used car into the marriage and Karen brought a \$500 debt. Two children were born to the marriage. Custody of both was awarded to Victor and that is not at issue on this appeal. The parties jointly accumulated assets during the marriage, including a house valued at approximately \$30,000, household furnishings valued at between \$5000 and \$10,000, Victor's savings account with a balance of \$2500, a 1977 station wagon and a 1972 pickup, and miscellaneous personal property. Victor's annual gross income for the year prior to trial was approximately \$18,000, while Karen grossed less than \$100 per week.

The trial court awarded the homestead to Victor in light of his retaining custody of the children. Karen was awarded certain property that she took from the household, including the station wagon, certain home furnishings, and personal belongings. She was also awarded certain items of her personal property and her mother's personal property that she desired to remove from the homestead. Finally, Karen was awarded a lump sum property settlement in the amount of \$15,000, payable in monthly installments of \$250, with the balance accumulating interest at the annual rate of seven percent. That sum, along with the trial court's award of \$450 for Karen's attorney fees were ordered to operate as a lien against the homestead awarded to Victor. Victor contends the property settlement requiring him to pay Karen \$250 per month is unduly burdensome in light of his obligation to care for the parties' children as the custodial parent.

We note that Karen was not awarded alimony. This is a factor to be considered in determining whether a property division was equitable and just. In re Marriage of Abild, 243 N.W.2d 541, 543 (Iowa 1976). This case is factually similar to In re Marriage of McDowell, 244 N.W.2d 238 (Iowa 1976), in which the husband was awarded custody of the children and the parties' residence, and the wife was awarded no alimony and property valued at less than one-third of the total net marital assets. Id. at 239-40. Under the circumstances, the supreme court determined that the wife's award should be increased to approximately one-half of the total marital assets to achieve an equitable and just award. Id. at 240. Under the circumstances in the case at bar, we think the trial court attempted to reach a similar result to that ultimately reached in McDowell. We conclude that the trial court's property division was equitable and just under the circumstances, and we decline to disturb that provision of the decree. In so concluding, we decline to consider, as the trial court did, Victor's contingent future interest in a farm and Karen's judgment against her first husband for back child support that has little promise of collectibility at the present time, since those interests are too remote to be considered along with the other marital assets. Costs are taxed to Victor.

AFFIRMED.