FILED
MAY 20 1977
CLERK SUPREME COURT

125

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF THELMA F. SMITH and LEON E. SMITH

Upon the Petition of	)	
THELMA F. SMITH,	)	
Appellant,	)	Filed May 20, 1977
And Concerning	)	
LEON E. SMITH,	)	145
Appellee.	)	2-58249

Appeal from Scott District Court - Nathan Grant, Judge.

Appeal from economic provisions of marriage dissolution decree. Affirmed.

Ralph D. Beal, of Davenport, for appellant.

Morton A. Teitle, of Davenport, for appellee.

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

PER CURIAM

Petitioner, Thelma Smith, appeals from the property settlement provisions in a decree of marriage dissolution from Leon Smith.

In resolving the issue as trier de novo, we have examined the entire record, giving weight to the findings of trial court but not being bound by them. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974).

At trial, the parties stipulated as to the relative values of their various assets. In the decree, trial court awarded Thelma the lion's share of the assets. Thelma contends she is entitled to more because of her unusual sacrifices in the marriage *See* Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968). Even if we view her evidence of unusual sacrifice in the light most favorable to her, we doubt it would entitle her to any greater share of the assets than she received under the decree. Trial court properly applied as criteria for determining an equitable division of the marital assets those set out in Schantz v. Schantz, supra, but without consideration of fault. In re Marriage of Williams, 199 N.W.2d 339 (Iowa 1972). We conclude the property division was equitable as to her.

Leon has requested an allowance of fees for his attorney's services related to this appeal. Attorney fees are not allowed as a matter of right and any such award must depend upon the financial circumstances and earnings of both parties. In re Marriage of Peterson, 227 N.W.2d 139, 142 (Iowa 1975). Under the circumstances revealed by the record we find an allowance for attorney's fees is not warranted.

We affirm trial court in all respects. Costs on appeal are taxed to petitioner.