FILED
SEP 9 1977
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF MARY TEVIS LAMBERT and DONALD B. LAMBERT

Upon the Petition of

MARY TEVIS LAMBERT,

Appellee,

And Concerning

DONALD B. LAMBERT,

Appellant.

Filed September 9, 1977

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2-58820

Appeal from Marshall District Court - R. K. Richardson, Judge.

Appeal from economic provisions of marriage dissolution decree. Affirmed.

Carl E. Peterson, Grimes, Peterson, Buck & Schoell, of Marshalltown, for appellant.

Charles F. Fairall, Fairall, Fairall & Baker, of Marshalltown, for appellee.

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

PER CURIAM

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Respondent, Donald B. Lambert, appeals from provisions of a decree of marriage dissolution regarding division of marital assets.

To resolve the issues as trier de novo on appeal we examine the whole record and, while we give weight to the findings of trial court, we are not bound by them. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974). Criteria for determining equitable division of marital assets are set out in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), modified in In re Marriage of Williams, 199 N.W.2d 339 (Iowa 1972).

I. Donald first complains that trial court was not justified in awarding possession of the family home to petitioner, Mary Tevis Lambert, and delaying sale of the home for so long as she lives in it and remains unmarried, or until within six months after their son, Matthew, graduates from high school. He claims that this portion of the decree unfairly deprives him of control of his equity in the home, that maintenance of this large home is unreasonably expensive for housing two persons, and that there is no assurance that Tevi will preserve and properly maintain the property.

This manner of disposition of the homestead has been specifically approved by our Supreme Court. In re Marriage of Willcoxson, 250 N.W.2d 425 (Iowa 1977); In re Marriage of Jordan, 203 N.W.2d 314 (Iowa 1972). Evidence presented on the expense of housing indicates that Tevi could not find other acceptable housing for significantly less cost. Possession of the spacious home by Tevi affords Matthew a large yard for play and permits him to remain in a familiar neighborhood and attend his same school. Meanwhile, Tevi is required to make the monthly mortgage payments, pay all of the taxes, keep insurance in force, and maintain the home as it was at the time of the decree. From examination of the record we conclude trial court was justified in awarding Tevi possession of the home under the conditions prescribed, including its ultimate sale and the equal division of the equity between the parties.

II. Donald also contends that the award of $400 alimony per month is excessive. Although initially this might appear to be an excessive allowance, it must be recognized that over one-half of each payment goes to monthly house payments, including taxes and insurance, and that such payments may be expected to return some ultimate benefit to Donald. Moreover, at the time of the decree Tevi's earning capacity was uncertain. We conclude trial court did not err in its award of alimony.

Tevi's request that Donald pay her attorneys' fees and their expenses related to this appeal is allowed. Donald is ordered to pay $583.82 to Tevi's attorneys of record. See In re Marriage of Peterson, 227 N.W.2d 139, 142 (Iowa 1975); Raabe v. Raabe, 191 N.W.2d 551, 554 (Iowa 1971).