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CLERK SUPREME COURT

230

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF DOROTHY L. PODREBARAC & GEORGE F. PODREBARAC

Upon the Petition of)
DOROTHY LOUISE PODREBARAC,) Filed November 19, 1979
Petitioner-Appellee,)
And Concerning)
GEORGE FRANK PODREBARAC,) 313
Respondent-Appellant.) 2-63298

Appeal from Polk District Court - Anthony M. Critelli, Judge.

Respondent-husband appeals economic provisions of dissolution decree. - Affirmed with modification.

Joseph B. Joyce, Des Moines, for respondent-appellant.

William D. Scherle, of Hansen, McClintock & Riley, Des Moines, for petitioner-appellee.

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

PER CURIAM

Respondent-husband George Frank Podrebarac appeals economic provisions of decree dissolving his 34-year-marriage to petitioner-wife Dorothy Louise Podrebarac. Affirmed with modification.

In its decree entered February 15, 1979, the trial court dissolved the marriage of the parties and divided their more than $50,000 in assets. Petitioner was awarded one-half the couple's $6000 of household goods, one-half their equity in cemetary lots, an automobile, a $12,000 profit-sharing account she accumulated while employed at a Des Moines bank and the couple's home, valued at between $35,000 and $42,000 but subject to a $7500 mortgage. Respondent was awarded the remaining half interest in the personal property and cemetary lots, an automobile and $5000 to be paid by petitioner as a condition to her receiving the couple's home. On appeal, respondent asserts the property division is inequitable because it did not equally divide the assets between the parties.

Our review is de novo. Iowa R. App. P. 4. We apply the criteria enumerated in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), except fault. In re Marriage of Williams, 199 N.W.2d 339, 344 (Iowa 1972). Under Schantz, we find the parties are similarly situated in many respects such as social position, education, and contribution to accumulation of assets. Both parties have health problems but petitioner was unable to work and receiving Social Security disability payments at time of trial. Further, we find petitioner made substantial sacrifices during the marriage in her efforts to preserve it.

In light of the Schantz criteria, we believe modification is in order since respondent received but $9400 of the more than $50,000 in marital assets. We find the division of personalty equitable and order the parties to effectuate that division within 30 days of the filing of this opinion. We also believe it proper that petitioner receive sole interest in the profit-sharing account, given her sacrifices during the marriage. However, we believe respondent is entitled to one-half of the couple's equity in the real estate. We hold respondent shall receive one-half of the couple's net interest in the home. So that a forced sale may be prevented, petitioner has the option of retaining the real estate and may do so by paying respondent one-half of the couple's equity in the

home within six months of procedendo. If she fails to do so, the house shall be sold and the net proceeds equally distributed between the parties. Because of petitioner's status at the time of trial, we also believe it equitable to order respondent to pay her $150 per month alimony until such time as she remarries or either party dies. We believe this award of alimony gives just and reasonable consideration to the support obligations of the parties since petitioner's health prevented her from working at the time of trial and her income was limited to disability compensation. On the other hand, respondent had maintained his part-time job, was collecting retirement benefits at the time of trial and is able to bear the support obligation. If, however, petitioner returns to work or if her Social Security disability payments are terminated, respondent may seek modification of the alimony award.

Since we find institution of the above provisions equitably distributes the couple's assets, the trial court decree is affirmed as modified. Costs are taxed to respondent.

AFFIRMED AS MODIFIED.