

FILED

JAN 26 1983

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JANET ANN FIALA,)
a/k/a JANET ANNE FIALA, AND)
VERNON JAMES FIALA)

UPON THE PETITION OF)
JANET ANN FIALA, a/k/a JANET ANNE FIALA,)

Petitioner/Appellee/Cross-Appellant,)

AND CONCERNING)
VERNON JAMES FIALA,)

Respondent/Appellant/Cross-Appellee.)

Filed January 26, 1983

2-363
 2-68334

Appeal from Polk District Court, Gene L. Needles, Judge.

Respondent appeals and petitioner cross-appeals from the economic provisions of the decree dissolving their marriage. MODIFIED ON RESPONDENT'S APPEAL; AFFIRMED ON PETITIONER'S CROSS-APPEAL; REMANDED FOR ENTRY OF MODIFIED DECREE ON RESPONDENT'S APPEAL.

Robert H. Laden and Thomas P. Schlapkohl of Hyland, Laden & Pearson, Des Moines, for respondent-appellant.

Patrick H. Payton, Des Moines, for petitioner-appellee.

Considered en banc.

PER CURIAM

Respondent-husband appeals and petitioner-wife cross-appeals from the economic provisions of the decree dissolving their marriage. The dissolution decree provided that both parties would continue to own their house but that petitioner-wife, the custodial parent, would have possession of the house until she either sold the house or remarried. The decree also awarded petitioner-wife \$25 per week alimony until she remarried or either party died.

The husband asserts on appeal that the wife should have possession of the house only until the parties' youngest child is grown. We agree. We therefore modify the decree to award the house to the wife alone, subject to a \$18,970 lien in the husband's favor payable, together with ten percent annual interest from the date of the decree, on or before July 25, 1988, the eighteenth birthday of the parties' youngest child, or when the property is sold, whichever event occurs first.

The wife challenges the amount of her alimony award; husband challenges the duration. We find the amount of the award adequate, but we agree with the husband that the award should be rehabilitative only. We therefore modify the decree to provide that the husband's alimony obligation shall cease when the wife remarries, when either party dies, or ten years plus one month after the date of the decree, whichever is earlier.

The wife is awarded \$600 toward her attorney fees on appeal. The costs of the appeal are taxed to the husband.

MODIFIED ON RESPONDENT'S APPEAL; AFFIRMED ON PETITIONER'S CROSS-APPEAL; AND REMANDED FOR CROSS-ENTRY OF MODIFIED DECREE CONSISTENT WITH OPINION.