IN THE COURT OF APPEALS OF IOWA

No. 7-751 / 97-0002
Filed September 30, 1998

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CLERK SUPREME COURT

IN RE THE MARRIAGE OF HENRY A. HAUERSPERGER AND PAULINE E. HAUERSPERGER

Upon the Petition of
HENRY A. HAUERSPERGER,
Appellant,

And Concerning
PAULINE E. HAUERSPERGER,
Appellee.

Appeal from the Iowa District Court for Poweshiek County, Robert Bates, Judge.

Henry Hauersperger appeals from the provisions of the parties' dissolution decree. **AFFIRMED AS MODIFIED.**

Barry S. Kaplan of Fairall, Fairall, Kaplan, Hoglan, Condon & Klaessy, Marshalltown, for appellant.

Charles M. Manly, III of Manly Law Firm, Grinnell, for appellee.

Considered by Cady, C.J., and Streit and Vogel, JJ.

STREIT, J.

Henry Hauersperger appeals the court's division of the equity in the home bought during the marriage and the division of Pauline Hauersperger's pension. We reverse the court's award of one-hundred percent of the equity in the home to Pauline. Because the parties have not marshaled sufficient evidence of the value of Pauline's or Henry's pension, we will not modify the court's division of the pensions.

I. Background & Facts.

Henry and Pauline were married in 1989. They divorced in 1996. Henry was thirty and Pauline was thirty-seven at the time of trial. The couple has one child, Andrew, who was six years old at the time of trial.

Henry has worked in the manufacturing industry for twelve years, first at Wolverine and then at Maytag. His gross annual income is approximately $36,500. Pauline has worked at Lennox Industries for ten years. Her gross annual income is approximately $37,500. Pauline has a pension through Lennox.

The property accumulated during the marriage includes: a house, four vehicles, savings and checking accounts, and miscellaneous personal property. After trial, the court awarded Pauline primary physical custody of Andrew, all equity in the home, the total value of her pension, two vehicles, and miscellaneous personal property. The final property settlement awarded assets worth approximately $32,000 to Pauline and assets worth approximately $11,000 to Henry. Henry appeals the court's division of the equity in the home and the division of Pauline's pension.

II. Standard of Review.

Dissolutions are equitable in nature and reviewed de novo. *See* Iowa R. App. P. 4. This requires an examination of the entire record to adjudicate anew the rights of the parties. *In re Marriage of Ruter*, 564 N.W.2d 849, 851 (Iowa App. 1997). Weight is given to the findings of the trial court, although they are not binding. *Id.*; Iowa R. App. P. 14(f)(7).

III. Division of the Equity in the Home.

Henry contends the trial court erred in awarding Pauline one-hundred percent of the equity in the parties' home.

The couple bought the home in 1990 for $57,000. They paid twenty-percent down when they bought the house. There was a $41,319 mortgage with approximately $28,600 equity in the home at the time of trial. One-half of the down payment amount came from the couple's savings and the other half was borrowed using one of their vehicles as collateral.

Pauline argues she was entitled to all the equity in the home because she made a larger contribution to the couple's living expenses during the marriage. As evidence of this fact, Pauline offered numerous canceled checks which were used to pay for the parties' living expenses. Pauline proved she made deposits into the parties' joint account which exceeded Henry's deposits by $20,000. The court found, in light of this evidence, Pauline's contribution to the marriage had been greater than Henry's and awarded Pauline all the equity in the home.

The partners in a marriage are entitled to a just and equitable share of the property accumulated through their joint efforts. *In re Marriage of Russell*, 473 N.W.2d 244, 246 (Iowa App. 1991). The Iowa courts do not require an equal division or percentage distribution. *Id.* The determining factor is what is fair and equitable in each particular circumstance. *Id.; see also In re Marriage of Bare*, 203 N.W.2d 551, 554 (Iowa 1973); *In re Marriage of Havran*, 406 N.W.2d 450, 452 (Iowa App. 1987); *In re Marriage of Griffin*, 356 N.W.2d 606, 608 (Iowa App. 1984). The distribution of the property of the parties should be equitable under the circumstances after consideration of the criteria codified in Iowa Code section 598.21(1). *In re Marriage of Estlund*, 344 N.W.2d 276, 280 (Iowa App. 1983).

Iowa Code Section 598.21(1)(c) provides the court shall divide all property after considering the length of the marriage, the property brought into the marriage by each party, and the contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services. *In re Marriage of Lattig,* 318 N.W.2d 811, 814 (Iowa App. 1982).

The home bought by Henry and Pauline was through their joint efforts. The home was subject to an equitable division. *See In re Marriage of Hass*, 538 N.W.2d 889, 892 (Iowa App.1995). The court's award of all the equity to Pauline was not equitable. The court considered only the economic contribution of the parties in awarding the equity to Pauline. The finding that Pauline had made a greater contribution was based only on Pauline's offer of canceled checks and bank account

balances. Although Henry did not offer canceled checks to prove how he spent his income, there was no evidence Henry spent his income on anything other than family living expenses. In addition, Henry contributed to the family by doing normal household and vehicle maintenance and contributing to child care.

We reject the notion a spouse must provide detailed documentation to support testimony concerning any household duties or other work. Moreover, we look to the contributions of each party to the marriage. This is a broad concept which extends well beyond contributions to the accumulation of property, and does not lend itself to record keeping. *In re Marriage of Miller*, 552 N.W.2d 460, 464 (Iowa App. 1996). Reducing dissolution proceedings to an accounting of only the parties' economic contribution during the marriage needlessly diminishes the institution of marriage. We will not subscribe to such notions. This method ignores the other party's noneconomic contribution to the marriage. For these reasons, we reverse the trial court's award of all of the equity in the home to Pauline. Pauline is ordered to pay $14,000, without interest, to Henry when she remarries, vacates the premises, disposes of the property, or Andrew reaches the age of eighteen years, whichever first occurs. Pauline shall be responsible for all debts, mortgages, and taxes on the property.

IV. Division of Pauline's Pension.

Henry argues the trial court erred in not dividing Pauline's pension. It is well established that pension benefits, although individually owned, are marital property

subject to division. *In re Marriage of Wilson*, 449 N.W.2d 890, 892 (Iowa App. 1989). Henry and Pauline were married for seven of the ten years Pauline has worked at Lennox and contributed to her pension. Henry complains Pauline did not investigate the value of her pension or offer any such evidence. There is no evidence of the pension's value in the record. Pauline contends Henry had a pension at Wolverine which was not disclosed. There is no evidence in the record of the value of Henry's pension. It was both parties' burden to offer evidence of the value of the pensions. Without such evidence, we refuse to disturb the ruling of the trial court. Pauline shall keep her pension and Henry shall keep his pension.

AFFIRMED AS MODIFIED.