

IN THE COURT OF APPEALS OF IOWA

No. 1-425 / 90-1695

IN RE THE MARRIAGE OF ALDAH L. PARKHOUSE
AND THOMAS W. PARKHOUSE

FILED

DEC 31 1991

CLERK SUPREME COURT

Upon the Petition of

ALDAH L. PARKHOUSE,

Petitioner-Appellant/Cross-Appellee,

And Concerning

THOMAS W. PARKHOUSE,

Respondent-Appellee/Cross-Appellant.

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Appeal from the Iowa District Court for Black Hawk
County, George L. Stigler, Judge.

Petitioner wife appeals and respondent husband
cross-appeals the decree dissolving the parties' marriage.

AFFIRMED.

C.A. Frerichs and Thomas P. Frerichs, Waterloo, for
appellant.

E.J. Gallagher, III, and Jeffrey C. Peterzalek of
Gallagher, Langlas & Gallagher, P.C., Waterloo, for
appellee.

Considered by Oxberger, C.J., and Donielson and Hayden,
JJ.

OXBERGER, C.J.

Aldah L. Parkhouse and Thomas W. Parkhouse were married in 1962. Neither party brought substantial assets to the marriage. Aldah is 45 years old. She is in relatively good health, but she takes medications to control depression. She has a seventh grade education and has worked at John Deere Tractor Works for many years. She now earns \$13 per hour. Thomas is 46 years old. He is good health. He has an eleventh grade education. Like Aldah, he has worked at John Deere Tractor Works for many years. He now earns \$15 per hour.

In 1984, Aldah was injured in a car accident. The parties settled the resulting claim for \$100,000. After payment of their attorney fees and expenses, the parties received between \$59,000 and \$60,000. They used a good part of this to make improvements on their house and to buy household goods. The remainder, \$21,600, is in a certificate of deposit in Aldah's name.

In its dissolution decree, the district court awarded Aldah, subject to any debt, a 1977 Blazer, a 1982 Oldsmobile, an inboard/outboard boat and trailer, a "trailer" cabin, a coin collection, certain household goods, her pension, the \$21,600 certificate of deposit, and all other financial accounts in her name.

The district court awarded Thomas, subject to any debt, the parties' house, a 1966 Volkswagen, a 1979 Pontiac

purchased after the parties separated, a 1940 Chevrolet pickup, a 1946 Chevrolet pickup, a flat bottom boat, a dirt bike, a motorcycle, two snowmobiles, a Bible, certain household goods, his pension plan, and all other financial accounts in his name. The district court directed Thomas to pay a debt to the John Deere Community Credit Union.

In ruling on a posttrial motion, the district court changed its award of the Bible from Thomas to Aldah. It also awarded Aldah a judgment of \$5,000, stating that it was doing so because Thomas had given away some of the items which were awarded to Aldah and to make the property division more equal. Aldah has appealed and Thomas has cross-appealed.

SCOPE OF REVIEW: In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7). The partners in the marriage are "entitled to a just and equitable share of the property accumulated through their joint efforts." In re Marriage of Havran, 406 N.W.2d 450, 452 (Iowa App. 1987). The distribution of the property of the parties should be that which is 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).

PROCEEDS OF THE PERSONAL INJURY SETTLEMENT: We first consider whether the trial court correctly distributed the proceeds of a personal injury settlement as marital property. The trial court considered the proceeds from the personal injury settlement to be marital property. Aldah asserts that the trial court should have distributed the proceeds according to the portions relating to her injuries and Thomas' injuries. We disagree.

Proceeds of a personal injury claim are marital assets, to be divided according to the circumstances of each case, using the "mechanistic approach". In re Marriage of McNerney, 417 N.W.2d 205, 206 (Iowa 1987). (emphasis added). The record indicates that the majority of the proceeds from the personal injury settlement were used for home improvements, furniture and accessories. When considering In re Marriage of Butler, 346 N.W.2d 45 (Iowa Ct. App. 1984), this court determined that proceeds from a workmen's compensation award were joint marital property, at least to the extent the proceeds were made available to the family unit for its unrestricted use and benefit. Id. at 47 The separate property of one spouse is transformed into marital property when it is placed in some form of joint ownership. Id. We agree with the trial court that

at the time of the award, the marriage was intact and both parties treated the award as joint marital property. We find the trial court did not err in the manner of its distribution of the proceeds from the personal injury settlement.

ASSESSMENT OF PROPERTY VALUES: The trial court had the benefit of assessing the credibility of witnesses who clearly have a high degree of animosity towards each other. The court stated:

The court finds that none of the values set forth in the calculation or as testified to by the parties can be relied upon as having the values asserted by the petitioner's calculations. . .the values claimed both by the petitioner and respondent are far from realistic given the ages, high mileage and overall poor condition of the various autos and boat.

There are clear indications the parties were unreasonable in the assessment of property values. A good example the court noted was the value of an alleged seventeenth century Bible at \$500, which in reality is an ordinary Bible, purchased by Aldah from a Goodwill store for \$10.

In light of the difficulty of sorting through the unrealistic assertions of both parties, we find the value placed on the assets by the trial court to be well within the permissible range of evidence and will not disturb them on appeal. See In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). We find the manner and amount of

distribution of the proceeds equitable. We affirm the trial court on this matter.

CROSS-APPEAL: We next consider whether the trial court was correct in awarding \$5,000 to Aldah, where Thomas allowed the former couple's children and others to take property from the home and cabin to the financial detriment of Aldah. We affirm the trial court. Where Thomas knowingly gave away items of Aldah's jewelry, clothing, furniture, the microwave and other items, the additional award to Aldah was a reasonable amount to equalize the property distribution.

Each party shall pay his or her own attorney's fees. Costs are taxed to the appellant.

AFFIRMED.