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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF KAYDELL A. LIGENO AND LOUIS D. LIGENO

UPON THE PETITION OF)
KAYDELL A. LIGENO,) Filed April 28, 1978
Appellee/Cross-Appellant,)
AND CONCERNING)
LOUIS D. LIGENO,) 477
Appellant/Cross-Appellee.) 2-60666

Appeal from Scott District Court - C. H. Pelton, Judge.

Respondent appeals the property settlement and child support provisions of a dissolution decree. Petitioner appeals the property settlement and attorney fee provisions and the denial of alimony. AFFIRMED ON RESPONDENT'S APPEAL; AFFIRMED AS MODIFIED ON PETITIONER'S APPEAL.

Seymore M. Raben, of Davenport, counsel for appellant.

Edward N. Wehr, of Davenport, counsel for appellee.

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

DONIELSON, J.

Respondent-Louis D. Ligeno appeals and petitioner-Kaydell A. Ligeno cross-appeals from the provisions of a dissolution decree entered April 7, 1977. Respondent challenges the property settlement and child support provisions and petitioner contends that the property settlement and denial of alimony were inequitable and that the award of attorney fees was inadequate.

The parties were married October 18, 1974, this being the second marriage for both. At the time of hearing on this matter in district court, Kaydell was 29 years old and Louis was 32. The record reflects that the parties had only lived together as husband and wife for a little over one year and that in October, 1976, after they had separated, Kaydell gave birth to a daughter, Jessica. Although Louis denied paternity, the trial court found that he was the child's natural father.

Louis works as a general supervisor of production at a manufacturing plant and earns between $25,000 and $30,000 per year. Before and during the marriage, Kaydell worked as a medical secretary, earning as much as $650 per month. However, she quit work during her pregnancy and remained unemployed at the time of trial.

The trial court awarded custody of Jessica to Kaydell and ordered Louis to pay $75 per week in child support. No alimony was awarded, however. With regard to property settlement, Kaydell was awarded certain household goods, two automobiles and her personal effects. Louis was given an automobile, his gun collection, two motorcycles, various sporting equipment and certain household goods. Although each party was given his or her separate bank account, neither one contained more than a minimal sum. In addition, Louis was ordered to pay Kaydell $2500 in order to equalize the division of property, and an additional $200 to be applied to her attorney fees.

Our review in this matter is de novo. Rule 4, Rules of Appellate Procedure. Although we give weight to the trial court's findings of fact, we are not bound by them. Rule 14(f)(7), R. App. P. In matters of property settlement and alimony, we are guided by the criteria set forth in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), without regard to fault. In re Marriage of Williams, 199 N.W.2d 339, 345-346 (Iowa 1972). In reviewing child support, we are guided by the considerations enumerated in In re Marriage of Zoellner, 219 N.W.2d 517, 525 (Iowa 1974). Further, precedents are of little

value and a determination of what is right depends upon the facts of each case. In re Marriage of Romig, 207 N.W.2d 780, 783 (Iowa 1973).

After reviewing the record in light of the criteria set forth in Schantz, we are satisfied that the property settlement ordered by the trial court achieved an equitable division of the assets of the parties and that the court was justified in denying alimony. We also conclude that the child support award of $75 per week was justified by the evidence. See In re Marriage of Horstmann, _____ N.W.2d _____, slip op. at 14-15 (Iowa, filed March 22, 1978).

We agree with petitioner that the award of attorney fees by the trial court was inadequate and that she is entitled to an award for such fees on appeal. Consequently, we direct Louis to pay an additional $1400 to be applied to Kaydell's obligation for attorney fees for trial and appeal. The judgment of the district court is affirmed on respondent's appeal and affirmed as modified on petitioner's appeal. Costs of this appeal are taxed to Louis.

AFFIRMED ON RESPONDENT'S APPEAL; AFFIRMED AS MODIFIED ON PETITIONER'S APPEAL.

All judges concur except Oxberger, J. who dissents.

OXBERGER, J. (dissenting)

I dissent. I believe this case warrants a provision of short-term alimony during the first year of the child's life. Kaydell was unemployed at trial faced with the responsibility of a six-month-old baby. I would award alimony of $200 per month for one year. At the conclusion of the first year, alimony should cease and child support should be reduced to $50 per week for the child.