FILED
DEC 28 1977
CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

Upon the Petition of)
CATHERINE C. HAPPEL,)
Appellee,)
And Concerning)
WILLIAM R. HAPPEL,)
Appellant.)

Filed December 28, 1977

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2-59727

Appeal from Linn District Court - William R. Eads, Judge.

Respondent husband contends that the child support and alimony provisions of an original dissolution decree are in excess of his ability to pay and that the property division is inequitable. - Modified, affirmed and remanded.

Thomas M. Collins & Richard C. Garberson, of Cedar Rapids, for Appellee.

James L. Chipokas, of Cedar Rapids, for Appellant.

Submitted to Allbee, C.J., and Donielson, Snell and Oxberger, JJ. Carter, J. takes no part.

OXBERGER, J.

Respondent William R. Happel appeals the economic provisions of the decree of dissolution entered July 12, 1976 which dissolved his 17-year marriage with petitioner Catherine C. Happel. He asserts the support award is in excess of his ability to pay and that the property division is inequitable.

In 1975 William earned $8800 from his employment. The trial court ordered him to pay child support of $225 per month per child, or $8100 annually, and alimony of $500 per month or $6000 annually. Additionally, William was ordered to pay medical and life insurance premiums for a total support obligation of $17,880. The trial court did not make a written finding of William's income. William and Catherine each acknowledge that during their marriage gifts received from their respective families provided substantial funds used to support their family's life style and for capital investment. They sold capital assets in the years 1972-1975, realizing the following net gain: 1972, $61,170; 1973, $48,423; 1974, $24,675; and 1975, $14,400. These large sums were a nonrecurring source of funds. Neither William nor Catherine has any expectation of additional gifts from their parents.

In awarding the marital assets the trial court appears to have properly considered the criteria set forth in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968) and modified in In re Marriage of Williams, 199 N.W.2d 339, 345-46 (Iowa 1972). We note that the trial court recognized and provided for William's entrepreneurial abilities by awarding him the properties which would most likely allow him to exercise those skills. The property division decreed by trial court was justified.

We do agree with William, however, that the alimony and child support decreed by the trial court are excessive. The burden imposed is so high that it destroys William's incentive to meet any of the obligations. See Yansky v. Yansky, 172 N.W.2d 114, 117-18 (Iowa 1969). Considering the property division, and the factors compiled in In re Marriage of Zoellner, 219 N.W.2d 517, 525 (Iowa 1974), we reduce alimony to $200 per month, and child support to $150 per month per child. We limit William's obligation to provide support and maintenance expenses for the childrens' approved post-high school education to one-half of such expense. Further, we make

the alimony and child support obligations a lien on William's property. Cf. Paul v. Paul, 217 Iowa 977, 984, 252 N.W. 114 (1934).

We do not fix the total attorney fees Catherine should pay on appeal; only the amount William should pay. In re Marriage of Beeh, 214 N.W.2d 170, 176 (1974). We order William to pay $1000 to apply to Catherine's attorney fees on appeal. Costs on appeal shall be taxed one-half to each party.

Affirmed in part, modified in part and remanded for entry of a decree consistent with this opinion.