FILED
AUG 26 1980
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA 554

IN RE THE MARRIAGE OF JOANNA TROTTER AND RONALD DEAN TROTTER

Upon the Petition of)
RONALD DEAN TROTTER,) Filed August 26, 1980
Respondent-Appellant,)
and Concerning)
JOANNA TROTTER,) 0-191 / 63197
Petitioner-Appellee.)

Appeal from Polk District Court - A. B. Crouch, Judge.

Respondent-husband appeals from trial court order modifying previous marriage dissolution decree so as to require additional child support payment. AFFIRMED.

Joseph A. Nugent of Meyer, Nugent & Smalley, Des Moines, Iowa, for respondent-appellant.

Thomas H. Mohr of Roehrick & Mohr, Des Moines, Iowa, for petitioner-appellee.

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

Respondent, Ronald Trotter, appeals from trial court order entered in 1979, modifying the 1977 decree dissolving his marriage to petitioner, Joanna Trotter. The provision in dispute is that part of the 1979 order requiring Ronald to contribute to the support of those minor children of the parties who are entitled thereto under section 598.1(2), The Code.

The original dissolution decree provided that neither party would pay child support to the other "due to limited finances of both parties at this time" (emphasis added). At that time, custody of two of the parties' four children was placed in Ronald and custody of the other two was placed in Joanna. The decree awarded Joanna the parties' small equity in a house. Except for the mortgage on the house, most of the parties' debts, approximating $7200, were made the responsibility of Ronald.

At the time of the modification proceedings, the two children in Ronald's custody were no longer subject to child support under section 598.1(2), The Code; the two children in Joanna's custody were subject to continuing support under that statute. After hearing the evidence presented at the hearing on modification, the trial court modified the original decree by requiring Ronald to pay child support for the two minor children remaining in Joanna's custody in the sum of $20 per week per child until the oldest child attained the age of 18 or completed high school. The payments were then to be reduced to $25 per week for the remaining child until that child attained the age of 18 or completed high school. We review this award **de novo**. Iowa R. App. P. 4.

I. Ronald urges that the child support award made in 1979 is erroneous because it conflicts with an agreement between the parties at the time of the 1977 decree wherein Joanna's waiver of child support was given in consideration for a favorable property settlement. We believe that the trial court properly rejected this contention. The parties can contract between themselves as to child support so long as the best interests of the children are not ignored. Denning v. Denning, 185 N.W.2d 238 (Iowa 1971); Sorenson v. Sorenson, 254 Iowa 817, 119 N.W.2d 129 (1963). Such an agreement must be based on good and sufficient consideration. Denning, 185 N.W.2d at 240. Assuming the agreement between the parties to have been valid when made, we nonetheless conclude that a decree based upon such an agreement is subject to modification based upon changed circumstances just as is any other dissolution decree.

During the time Ronald had responsibility for two of the couple's four children and was paying off the substantial debts of the parties, it was not expedient to require him to pay support for the two children in Joanna's custody. But these circumstances have

now changed. Considering Joanna's needs with respect to the support of the children in her custody, and the combined abilities of the parties to provide such need, the modification ordered by the trial court appears to be fully justified. A contrary result would be unfair to Joanna. In so holding, we reject Ronald's contention that if Joanna is entitled to modification of the child support provisions of the 1977 decree, he is now entitled to a modification of the original property settlement. These are separate considerations and Ronald has shown no grounds for relief from the property settlement effected by the 1977 decree. See e.g., In re Marriage of Full, 255 N.W.2d 153 (Iowa 1977).

II. We next consider Ronald's contention that the trial court erred in refusing to order Joanna to answer certain interrogatories. We conclude that any error in this regard is harmless in view of the fact that substantially all of the requested information was contained in Joanna's financial statement which was filed in the trial court and made available to Ronald.

III. Ronald also urges that the trial court erred in refusing to rule on his motion to dismiss Joanna's petition for modification. Because the trial court's findings of fact, conclusions of law, and order for modification fully disposed of the issues which were raised by the motion to dismiss, any failure to act on said motion, was without significance as to the result reached in the court below.

We have considered all arguments presented by appellant, and find no basis to disturb the trial court's order.

AFFIRMED.