FILED
JUN 2 9 1982
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF GAYLE LEA BALDRIDGE
AND JAMES MICHAEL BALDRIDGE

Upon the Petition of)
GAYLE LEA BALDRIDGE,)
Petitioner-Appellee,) Filed June 29, 1982
And Concerning)
JAMES MICHAEL BALDRIDGE,) 2-184
Respondent-Appellant.) 2-67328

Appeal from Johnson District Court - Larry J. Conmey, Judge.

Respondent husband appeals from the economic provisions of the parties' dissolution decree asserting: (1) the property division was inequitable; (2) that he should have been awarded alimony; (3) his child support payments are excessive; and (4) the trial court should have awarded him attorney fees. AFFIRMED AS MODIFIED.

Kristin L. Hibbs of Stein & Hibbs, Iowa City, for respondent-appellant.

William L. Meardon of Meardon, Sueppel, Downer & Hayes, Iowa City, for petitioner-appellee.

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

DONIELSON, J.

Respondent husband appeals from the economic provisions of the parties' dissolution decree asserting: (1) the property division was inequitable; (2) that he should have been awarded alimony; (3) his child support payments are excessive; and (4) the trial court should have awarded him attorney fees. We affirm as modified.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. Our responsibility is to review the facts as well as the law and to determine rights anew from the credible evidence on properly presented and preserved issues. In re Marriage of Full, 255 N.W.2d 153, 156 (Iowa 1977). While we give weight to the findings of the trial court, especially where credibility of witnesses is involved, we are not bound by them. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974); Iowa R. App. P. 14(f)(7). As in all cases of this type, precedent is of little value and our decision must ultimately depend upon the particular facts of this case. In re Marriage of Kehrli, 241 N.W.2d 923, 926 (Iowa 1976).

I.

The parties' thirteen year marriage was dissolved by a decree filed on August 10, 1981. Throughout the marriage petitioner was employed as a registered nurse and currently earns approximately $1500 gross per month. Respondent went to college during the marriage on the G.I. bill and was subsequently employed as a manual laborer. Respondent did not work during the year prior to the dissolution due to mental illness which required extensive hospitalization. During this time period, respondent was supported by his mother and he was living with her in Missouri at the time of trial. Respondent was recovering from his mental illness at the time of trial, but was unemployed and receiving $540 per month in disability payments which were to run for two years. He had also collected approximately $3600 in back disability payments.

The trial court's decree awarded custody of the parties' seven-year-old daughter to petitioner and ordered respondent to pay child support of $200 per month until the child reaches age 18. The parties' property was divided as follows. Petitioner was awarded a 1978 Dodge Aspen valued at $3,500, all the household goods and appliances, various items of personal property, approximately $2,500 in savings, and her pension plan worth $6,100. Petitioner was also awarded ownership of the parties' home subject to the existing mortgage and a $15,000 non-interest bearing lien in favor of respondent which is payable 60 days after respondent's child support obligation ceases. Any unpaid child support is to be charged against respondent's lien on the house. Respondent was awarded a 1973 Honda car valued at $1,000-1,300, some personal property, and a $5,995 savings certificate which represented the accumulated value of his pension. The trial court also denied respondent's request for alimony and attorney fees.

II.

Respondent asserts the trial court's property division was not equitable. We find the trial court's division of assets was equitable and affirm it as modified below.

The parties' primary asset was their home which had an accumulated equity of $29,414. This amount will be equally divided when the respondent's child support obligation is fulfilled. Until that time he has no responsibility for payments, taxes, or other expenses commonly associated with home ownership. However, since respondent's share of the equity may be unavailable for up to eleven years, we find the lien in respondent's favor should bear interest at 10 percent and that if petitioner moves out of the parties' home, then the home should be sold immediately to pay the balance of respondent's lien less any unpaid child support. In all other respects the property division is affirmed.

III.

Respondent asserts that child support payments of $200 per month is excessive in light of the fact he is unemployed and living on a $540 per month disability check. At the time of trial, respondent was still recuperating from his mental illness and was not self supporting. We find that in light of these circumstances his child support obligation should be temporarily reduced to $100 per month but will automatically increase to the original amount when respondent's disability benefits terminate or when he obtains full-time employment, whichever comes first.

IV.

Respondent asserts the trial court erred by failing to award him alimony. We disagree. Both parties in this case have the capacity to be self-supporting. Respondent is currently unemployed and disabled due to his mental illness, but his disability payments and the support of his mother will enable him to live comfortably until he is again able to obtain work. There is no evidence in the record to indicate that respondent will not be able to support himself when his disability pay terminates. We, therefore, affirm the trial court's denial of alimony.

V.

Respondent's final assertion is that the trial court erred in failing to award respondent attorney fees he incurred due to the dissolution. Attorney fees are not recoverable as a matter of right in a dissolution proceeding and the allowance of such fees depends upon one spouse's financial needs and the other's ability to satisfy them. Locke v. Locke, 263 N.W.2d 694, 696 (Iowa 1978). The trial court has considerable discretion in the allowance of attorney fees. Id. We find both parties have adequate resources to pay their own attorney fees and, therefore, affirm the trial court's denial of attorney fees to respondent.

AFFIRMED AS MODIFIED.