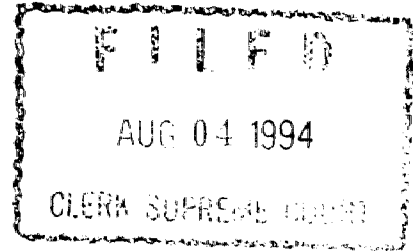


IN THE COURT OF APPEALS OF IOWA

No. 4-184 / 92-0304



IN RE THE MARRIAGE OF BEVERLY ROBIN
ROSENFELD AND MARTIN SANFORD ROSENFELD

Upon the Petition of
BEVERLY ROBIN ROSENFELD,

Petitioner-Appellant,

And Concerning
MARTIN SANFORD ROSENFELD,

Respondent-Appellant.

Appeal from the Iowa District Court for Polk County,
Gene L. Needles, Judge.

Respondent appeals from various provisions of the
district court's nunc pro tunc order clarifying various
aspects of the parties' original decree. **AFFIRMED.**

David S. Wiggins of Wiggins & Anderson, P.C., West Des
Moines, and Michael H. Figenshaw and David J. Lynch of
Bradshaw, Fowler, Proctor & Fairgrave, Des Moines, for
appellant.

Megan M. Antenucci and Bernard L. Spaeth, Jr. of
Whitfield & Eddy, Des Moines, and Mark McCormick of Belin
Harris Lamson McCormick, P.C., Des Moines, for appellee.

Heard by Sackett, P.J., and Cady and Huitink, JJ.
Donielson, C.J., and Hayden, J., take no part.

PER CURIAM

Petitioner-appellee Beverly Robin Rosenfeld appeals and respondent-appellant Martin Sanford Rosenfeld cross-appeals from a trial court order clarifying provisions in an original decree of dissolution. Martin contends the trial court: (1) should not have awarded interest on yearly payments to Beverly; (2) failed to award him interest on the house when Beverly did not deliver a quit claim deed; and (3) failed to award him interest on art work Beverly retained in her possession. Martin also contends the entire decree is reviewable on appeal since the trial court entered a nunc pro tunc order. We affirm.

The original decree was affirmed by this court by operation of law. Following denial of further review by the supreme court, Martin filed an application for a nunc pro tunc order and enforcement of the decree requesting, among other things, clarification as to whether he was required to pay interest to Beverly on a property division and whether Beverly should pay interest on the marital home and on art work. The trial court ruled Martin was required to pay interest at the rate of ten percent on the unpaid balance of the judgment entered on the property settlement and he was not entitled to interest on the value of the homestead or on the art work.

Martin first contends the district court erred in modifying the decree in a nunc pro tunc ruling. He says the trial court went beyond a clarification. Martin argues

the district court should not have modified an order that had been appealed because this court and the supreme court had interpreted the trial court's order in reaching their decision. We, too, have problems with the procedures utilized and agree with Martin that the trial court went beyond what should be done in a nunc pro tunc ruling. See Feddersen v. Feddersen, 271 N.W.2d 717, 718-19 (Iowa 1978); Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). However; Martin requested the order and cannot now be heard to complain on appeal that the trial court should not have addressed his challenges in a nunc pro tunc order.

Martin next complains the original decree did not provide for Beverly to draw interest on her judgment.

The decree provides:

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a cash payment is required to be made by Martin to Beverly in order to equitably distribute assets acquired or enhanced in value during the marriage. To that end Martin is ordered to pay Beverly as a property division the sum of \$500,000 payable in five annual installments of \$100,000 commencing on January 1, 1991, until paid in full. This sum shall be a judgment until paid in full; the unpaid balance shall accrue interest at the rate of 10% per annum . . .

Martin contends the dissolution decree only required him to pay interest on delinquent balances. We agree with the trial court that the decree clearly ordered Martin to pay interest on any amounts not paid. We affirm on this issue.

Next Martin contends he should be awarded interest on the homestead awarded to him because Beverly failed to

deliver a quit claim deed conveying any interest she had in the property to him. Martin had possession of the homestead at all times. A vendee in possession under a contract is chargeable with interest on the unpaid portion of the purchase price from the time of possession even though the vendor's title may have been defective. Interest is allowed under such circumstances to compensate for the vendee's use of the property. In re Estate of Zach, 257 Iowa 234, 238, 131 N.W.2d 484, 486 (1964); In re Estate of Kaldenberg, 256 Iowa 388, 393, 127 N.W.2d 649, 652 (1964). Martin had use of the property at all times. There is no basis for his claim for interest.

Martin further contends he should be awarded interest on the art work that was in Beverly's possession when the decree was entered but was awarded to him. Martin filed a supersedeas bond. Beverly did not. Martin could have obtained an execution to recover the art work. He did not do so. Martin has shown no prejudice.

We have examined the order and interpret it to say what the trial court determined it said. We, therefore, find no basis for Martin's appeal. We have examined all issues whether included in this decision or not except an issue raised in the briefs concerning visitation which was withdrawn at oral argument and has not been considered.

AFFIRMED.