

IN THE COURT OF APPEALS OF IOWA

No. 8-070 / 96-2284

000369

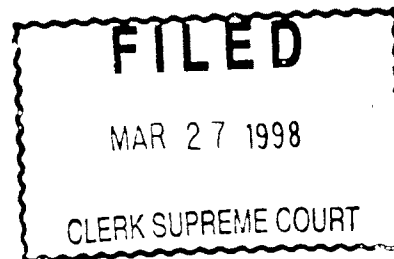
**IN RE THE MARRIAGE OF TERESA JANE
SNYDER AND BRAD ALLAN SNYDER**

**Upon the Petition of
TERESA JANE SNYDER,**

Petitioner-Appellant,

**And Concerning
BRAD ALLAN SNYDER,**

Respondent-Appellee.



Appeal from the Iowa District Court for Wapello County, Daniel P. Wilson,
Judge.

Petitioner appeals the economic provisions of the dissolution decree.

AFFIRMED AS MODIFIED.

Thomas M. Walter of Johnson, Hester, Walter, Harrison & Breckenridge,
L.L.P., Ottumwa, for appellant.

Timothy J. McKay of McKay, Moreland & Webber, P.C., Ottumwa, for
appellee.

Heard by Sackett, P.J., and Vogel and Mahan, JJ.

SACKETT. P.J.

Petitioner-appellant Teresa Jane Snyder appeals challenging the economic provisions of the November 1996 decree dissolving her twenty-year marriage to respondent-appellee Brad Allan Snyder. We affirm as modified.

Teresa, who was forty at the time of trial, and Brad, who was forty-two, have children born in 1978, 1980, and 1982. Two of the children had not yet reached their majority, and by agreement their physical care was awarded to Teresa, who had assumed the primary responsibility for the children during the marriage. Teresa had also worked outside the home on a part-time basis.

In May 1996, Teresa and the children left the family home. Teresa became a full-time college student planning to gain a teaching degree in May 1997 and expecting employment as a teacher in August 1997. She is in good health and capable of gainful employment.

Brad was employed at John Deere for three and one-half years before the marriage. He continued the employment and was so employed at the time of the dissolution, receiving an annual salary of over \$50,000. He is in good health and capable of continuing employment at John Deere, and plans to do so. During the marriage, the couple purchased two farms. Brad farmed the land in addition to full-time employment at John Deere.

The dissolution court ordered Brad to pay Teresa rehabilitative alimony of \$200 per month for eighteen months. He was further ordered to pay child support of

\$1261 per month for three children, \$1054 for two children, and \$736 for one child. Brad was also ordered to contribute to the children's support should they pursue a post-high school education. Brad was ordered to maintain health insurance for the children and pay one-half of uncovered medical expenses. The amount of child support and post-high school education expenses for the children is not subject to dispute.

The trial court valued the property and awarded property to Brad worth \$210,233, including both farms, and property worth \$66,400 to Teresa. Brad was ordered to assume \$133,158 in debt and pay Teresa \$5000 before December 2001. Teresa assumed \$20,700 in debt. The trial court found the net to Brad to be \$77,075 and the net to Teresa to be \$45,700.

The trial court, in making the division, found Brad earned income from the farm and was obligated to pay alimony and child support. The trial court found a division of the farm land would complicate matters and it was in the children's interest that Brad be awarded the farms. The trial court further found the money awarded to Teresa was easily accessible while Brad's award, including a pension account, could not be accessed for a number of years.

Teresa on appeal challenges the equity of the division. She contends the assets should be divided equally, especially when assessed with the small amount of alimony Brad was ordered to pay.

In this equitable action, our review is de novo. *In re Marriage of Bergfeld*, 465 N.W.2d 865, 868 (Iowa 1991). We examine the entire record and adjudicate rights anew on the issues properly presented. *In re Marriage of Steenhoek*, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the trial court's findings but are not bound by them. *Id.*

The partners to a marriage are entitled to a just and equitable share of the property accumulated through their joint efforts. *In re Marriage of Russell*, 473 N.W.2d 244, 246 (Iowa App. 1991). Iowa courts do not require an equal division or percentage distribution. *Id.* The determining factor is what is fair and equitable in each circumstance. *Id.* The distribution of the property should be made in consideration of the criteria codified in Iowa Code section 598.21(1) (1995). *See In re Marriage of Estlund*, 344 N.W.2d 276, 280 (Iowa App. 1983).

The values placed on the assets by the trial court are well within the permissible range of evidence and certain agreements made by the parties. We will not disturb them on appeal. *See In re Marriage of Bare*, 203 N.W.2d 551, 554 (Iowa 1973); *In re Marriage of Griffin*, 356 N.W.2d 606, 608 (Iowa App. 1984). Brad's pension benefits are subject to distribution in a dissolution and will not be treated differently than other property. *In re Marriage of Gonzalez*, 561 N.W.2d 94, 98 (Iowa App. 1997); *In re Marriage of Mott*, 444 N.W.2d 507, 510-11 (Iowa App. 1989).

In assessing Teresa's claim, we look at both the alimony awarded as well as the property division. Alimony may be used to remedy inequities in a marriage and to compensate a spouse who leaves the marriage at a financial disadvantage. *In re Marriage of Earsa*, 480 N.W.2d 84, 86 (Iowa App. 1991). It is a stipend paid in lieu of the other spouse's obligation for support. *In re Marriage of Wegner*, 434 N.W.2d 397, 398 (Iowa 1988). In a marriage of long duration, an award of alimony in addition to a substantially equal property distribution, especially where the disparity in earning capacity is great, has been affirmed. *See In re Marriage of Hitchcock*, 309 N.W.2d 432, 438 (Iowa 1981). Though Teresa expected gainful employment within a short time of the dissolution, the alimony awarded was minimal. While Teresa does not ask for more alimony, we consider its inadequacy in our assessment.

We do not on this record find the economic division equitable to Teresa. We concur with the trial court's conclusion that division of the farm equities would be difficult. We modify to increase the amount of money Brad is ordered to pay Teresa to \$15,000. We provide it shall be paid at the rate of \$5000 per year with the first payment due May 1, 1997; the second payment due May 1, 1998; and the third payment due May 1, 1999. Interest on the unpaid balance shall accrue at the rate of seven percent per annum from May 1, 1997.

Teresa has requested attorney fees. The matter of attorney fees rests within the court's broad discretion. *In re Marriage of Giles*, 338 N.W.2d 544, 546 (Iowa App.

1983); *In re Marriage of Lattig*, 318 N.W.2d 811, 817 (Iowa App. 1982). Our decision is guided by the needs of the party seeking the award, the ability of the other party to pay, and the relative merits of the appeal. *In re Marriage of Castle*, 312 N.W.2d 147, 150 (Iowa App. 1981) (Johnson and Oxberger, JJ, specially concurring).

We order Brad to pay \$1000 of Teresa's attorney fees.

AFFIRMED AS MODIFIED.