FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF FRANCES B. ROHLENA and FRANK A. ROHLENA

Upon the Petition of

FRANCES B. ROHLENA,

Appellant,

And Concerning

FRANK A. ROHLENA,

Appellee.

Filed September 9, 1977

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2-58518

Appeal from Linn District Court - Ansel J. Chapman, Judge.

Appeal from economic provisions of a dissolution decree. Affirmed as modified.

John K. Von Lackum of Cedar Rapids, for appellant.

Ernest F. Pence of Cedar Rapids, for appellee.

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

PER CURIAM

This is an appeal from the economic provisions of a dissolution decree. Petitioner, Frances Rohlena, complains that the $48,500 lump sum property settlement awarded her in the decree dissolving her marriage to respondent, Frank Rohlena, is inequitable.

Our review is de novo. With respect to the economic determination which we make in this case we apply the criteria set forth in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968) excluding considerations of fault. Precedent is of little value in making such determinations and each case must be determined on its own peculiar circumstances.

Frances's and Frank's marriage began in 1938 and was dissolved by decree on April 11, 1975. The three children born of the marriage were all emancipated at that time. At the time of the decree Frank was 56 years old, in good health, worked the night shift at Wilson and Company, grossing $12,000 per year, and owned an 80 acre farm. His net farm income as reported on federal income tax returns for the period 1967-72 varied from a high of $1984 to a low of $1253. Frances was 55 years old at the time of the decree, had an eighth grade education, and was 100% disabled, receiving a social security disability payment in the sum of $87.10 per month. Frank plans to retire from Wilson and Company at age 62, at which time he will receive a monthly pension payment of $170.50.

The trial court awarded Frances alimony from Frank in the sum of $225 per month payable until she remarries or dies. In addition, Frank was required to pay court costs and $2100 towards Frances's attorney fees. Frank does not appeal these awards.

As property settlement Frances was to receive the sum of $48,500 with Frank also holding her harmless from income taxes, if any, payable on said sum. Our review of the record shows Frances thereby received approximately one-third of the net worth of the parties as her share of the property settlement after a marriage of 37 years. We deem this inequitable and modify the decree so as to increase her lump sum award to the sum of $74,000, the unpaid balance of which shall be paid within 180 days from issuance of the procedendo. As so modified the decree is affirmed. Costs are taxed to Frank and no attorney fees are allowed on appeal.