

IN THE COURT OF APPEALS OF IOWA

No. 7-706 / 97-637

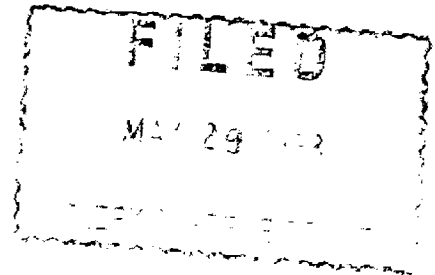
**IN RE THE MARRIAGE OF CAROL A. HALL
AND FELIX M. HALL**

Upon the Petition of
CAROL A. HALL,

Appellee,

And Concerning
FELIX M. HALL,

Appellant.



Appeal from the Iowa District Court for Lee County, R. David Fahey, Judge.

Felix Hall appeals economic provisions of the parties' dissolution decree.

AFFIRMED.

J.W. McGrath of McGrath & McGrath, P.C., Keosauqua, for appellant.

M. Carl McMurray, Keokuk, for appellee.

Considered by Vogel, P.J., and Mahan, and Hayden, S.J.* Sackett, J., takes no part.

*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1997).

PER CURIAM

The respondent, Felix, appeals economic provisions of the parties' dissolution decree. He contends the district court erred in concluding he had no interest in the real property where the parties resided.

Felix and Carol Hall married in September 1980. At the time of their dissolution, Felix was forty-seven and Carol was fifty-six. No children were born to the marriage. Carol is employed at BTR in Keokuk and earns a net monthly wage of \$1219. She acquired a retirement pension while employed at BTR. Before marriage, Felix was employed as a logger, welder, truck driver, and mechanic. However, in 1979, Felix hurt his back and has not worked a regular job since. Felix has had three major spinal surgeries.

At the time of the marriage, Carol owned a home located at 321 Avenue F in Fort Madison. Carol had originally inherited a one-half interest in the home but purchased the remaining interest in 1975. The home was appraised at \$57,500. During the marriage, the parties acquired an adjoining lot. This lot was included in the appraisal of the property. During the marriage, Felix built a garage and shop on the property after tearing down an old house. A 1989 warranty deed transferred Carol's home to joint ownership with Felix.

In its distribution of marital assets, the court determined Carol should receive the marital home as an offset due to inheritance, and that Felix should receive a home he received as an inheritance. The court concluded Carol's pension rights should be

divided pursuant to a qualified domestic relations order, with Felix receiving twenty-five percent. Carol was awarded \$10,600 in other marital assets and \$2800 in debt. Felix was awarded \$20,000 in marital property and \$2600 in debt. The court declined to award Felix alimony, based on the court's finding that while he does have a disability, it is not as severe as he pretends and he is capable of working full-time.

We review dissolutions of marriage de novo. Iowa R. App. P. 4; *Marriage of Burgess*, 568 N.W.2d 827, 828 (Iowa App. 1997). Parties in a marriage are entitled to a just and equitable share of the property accumulated through their joint efforts. *Marriage of Gonzalez*, 561 N.W.2d 94, 98 (Iowa App. 1997). 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); see *In re Marriage of Estlund*, 344 N.W.2d 276, 280 (Iowa App. 1983).

Property which a party brings into the marriage is a factor to consider in making an equitable division. Iowa Code § 598.21(1)(b). A premarital asset is not necessarily set aside like gifted and inherited property. *Marriage of Miller*, 552 N.W.2d 460, 465 (Iowa App. 1996). Instead, it is a factor to consider, together with all the other circumstances, in making an overall division. Its impact on distribution will vary with the particular circumstance of each case. In this case, Carol's home was both partly inherited and a premarital asset. Furthermore, in considering accumulations to premarital assets, we do not limit our focus to the parties' direct

contributions to the increase. *Id.* Instead, we broadly consider the contributions of each party to the marriage, as well as all other factors. Iowa Code § 598.21(1). Financial matters make up but a portion of a marriage, and must not be overemphasized in determining an equitable distribution.

On appeal, Felix argues the district court erred in determining he did not have any rights in the property at 321 Avenue F. He asserts the shop and garage which he built were included in the appraisal of the property and that Carol transferred title from her own name to the parties as joint tenants with full right of survivorship. He maintains the increase in value of the property was due to building the garage and the addition of the adjoining lot.

From our de novo review of the record, we find the distribution of marital and premarital assets fair and equitable. We consider the statutory factors as well as the credibility assessment of the trial court which had the benefit of observing the witnesses. We therefore affirm the decision of the trial court.

AFFIRMED.