FILED
AUG 30 1983
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JOSEPH J. RECKER AND PATRICIA RECKER

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Upon the Petition of)
JOSEPH J. RECKER,)
Petitioner-Appellee,)
And Concerning)
PATRICIA RECKER,)
Respondent-Appellant.)

Filed August 30, 1983

3-146
2-69023

Appeal from Delaware District Court - Peter Van Metre, Judge.

Respondent-wife appeals from economic provisions of the parties' dissolution decree. AFFIRMED.

James L. Chipokas, Cedar Rapids, Iowa, for respondent-appellant.

John J. Goen of Jenk, Jenk & Goen, Dyersville, Iowa, for petitioner-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Schlegel and Hayden, JJ.

HAYDEN, J.

Respondent-wife appeals from economic provisions of the parties' dissolution decree. She asserts (1) that she should have been awarded a share in the increase in value of petitioner's farm which occurred during the marriage; (2) that the property division was inequitable; and (3) that she should have been awarded additional attorney fees.

The parties were married in 1977 and were, respectively, twenty-seven and twenty-three years old at the time of trial. Petitioner was a farmer, and respondent assisted with the farming operation during their four-and-a-half year marriage. An affidavit of financial status attached to a motion for temporary support during the pendency of this appeal reveals that respondent is currently employed part-time as a bartender and earns $80 per week. Income from the farming operation totalled $25,014 for the year 1981.

Petitioner was awarded the farm property, which he had purchased from his parents prior to the parties' marriage. The trial court found that the purchase price was so favorable that the purchase constituted "virtually a gift" to petitioner from his parents. The trial court found that, during the pendency of their marriage, the parties accumulated $78,170 in assets, but that a portion of these assets had been subsidized by petitioner's parents. Respondent was awarded $26,056 of the accumulated assets, and personal property valued at $8,476. In view of the favorable terms upon which it was purchased, the trial court refused to consider as a marital asset any increase in the value of the farm property that occurred during the marriage.

Respondent requested that she be awarded attorney fees. The trial court found that counsel's claimed preparation time of over seventy hours was excessive in view of the nature of this case, and awarded respondent $1,000 toward her attorney fees, which were in excess of $3,000. No alimony was awarded.

I. Scope of review. Our scope of review in marriage dissolution proceedings is **de novo.** Iowa R. App. P. 4. While we give weight to the findings of the trial court, particularly on issues involving the credibility of witnesses, we are not bound by those findings. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974).

II. Property Settlement. The division of property in dissolution proceedings is governed by Iowa Code § 598.21. That section, which codifies prior Iowa case law, provides that marital property is to be divided equitably between the parties according to certain specified criteria, which include the length of the marriage, the property brought into the marriage by each party, the contribution of each party to the marriage, the earning capacity of each party, and the age and health of the parties. See Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), and In re Marriage of Winter, 223 N.W.2d 165, 169 (Iowa 1974). Equity is the controlling principle, and we must reject any rule based upon a percentage of the parties' assets. In re Marriage of Cooper, 225 N.W.2d 915, 919 (Iowa 1975).

Respondent argues that the trial court's division of the property was inequitable. We do not agree. The parties' marriage was of relatively short duration, lasting only four and one-half years, and while respondent brought virtually no property into the marriage, petitioner contributed substantial assets, including the farm, livestock, and farm equipment. While we agree that during the length of the marriage respondent contributed "a full farmwife's share of the chores and field work," we are of the opinion that the division made by the trial court adequately credited respondent's efforts during those four and one-half years. We note that respondent is still quite young and in good health, and that she has no children or other dependents to support.

Respondent argues that she is entitled to receive a share of the appreciated value of petitioner's farm land. As a rule, property received by one party as a gift or a bequest is not subject to property division. Respondent does not dispute the

trial court's finding that the farm was received by petitioner as a gift from his parents, however, she asserts that such property may be divided if the court finds that a refusal to divide it would be inequitable. See Iowa Code § 598.21(2). Her assertion is correct, however, we do not find that the trial court's refusal to award any portion of the value of the farm to respondent was inequitable. We point out that respondent's share of the marital property as awarded to her by the trial court is adequate and fair in light of the duration of the parties' marriage and the amount of property brought into the marriage by respondent. We also note that the appreciation in the value of the farm land was due predominantly to the favorable price at which it was sold, and partly to the general effects of inflation. Respondent is not entitled to appreciation of property acquired by petitioner prior to their marriage when said appreciation was fortuitous, rather than due to the efforts of the parties. In re Marriage of Lattig, 318 N.W.2d 811, 815 (Iowa 1982).

III. Attorney Fees. Respondent argues that she is entitled to a greater amount than $1,000 toward the payment of her attorney fees. We do not agree. The trial court found that respondent's attorney's charges were excessive in view of the nature of the case at bar. "Trial courts are familiar with the value of services in dissolution matters. Most of the services for which compensation was allowed were rendered during trial before the judge who made the award. Trial courts have considerable discretion in fixing fees." In re Marriage of Wilcoxson, 250 N.W.2d 425, 427 (Iowa 1977). We find no reason to disturb the trial court's allowance in this case. The decree of the trial court is affirmed in all respects. Costs of this appeal are assessed to respondent.

AFFIRMED.