FILED
FEB 2 2 1990
CLERK SUPREME COURT

**IN THE COURT OF APPEALS OF IOWA**

No. 9-665 / 89-639

**IN RE THE MARRIAGE OF BRENDA LEE GATES AND FERRAL LEE GATES**

Upon the Petition of
**BRENDA LEE GATES,**

60

Appellee,

And Concerning
**FERRAL LEE GATES,**

Appellant.

---

Appeal from the Iowa District Court for Johnson County, Kristin L. Hibbs, Judge.

Appeal from the economic provisions of a district court decree of dissolution. **AFFIRMED AS MODIFIED.**

Peter C. Riley and David J. Smith of The Tom Riley Law Firm, P.C.,. Cedar Rapids, for appellant.

Margaret T. Lainson of Meardon, Sueppel, Downer & Hayes, Iowa City, for appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

**PER CURIAM**

Ferral Gates appeals from that portion of the district court decree of dissolution dividing the property of the parties and awarding child support.

Ferral Gates and Brenda Gates were married on May 16, 1981. At the time, Ferral was forty-one years of age and Brenda was twenty-three years of age. Two children were born of this marriage: Megan on March 27, 1986, and Levi on August 7, 1987. The paternity of the youngest child was established following a blood test.

Brenda has been employed by Hy-Vee throughout the marriage. She earns an approximate gross monthly income of $1,300 and a net monthly income of $938.83 after FICA, federal and state income tax, and health insurance withholdings. Ferral has been employed as a truck driver for Farmland Industries for the last year and a half prior to the dissolution. Ferral's financial affidavit showed a gross monthly income of $2,252.79 and a net monthly income of $1,538.89 after FICA, federal and state income tax, and health insurance withholdings. Ferral also has certain job-related expenses.

In early 1982, the parties purchased their homestead on a real estate contract. The total purchase price was $120,000 with a $40,000 down payment. Ferral claims the down payment came from proceeds of the sale of property he had acquired prior to the parties' marriage. An adjoining

lot was purchased for $4,000. The parties also borrowed an additional $63,000 from the West Branch State Bank that was secured by the property. At the time of trial, the real estate contract balance due was $60,003.77, and the balance due on the bank loans was about $29,000.

In October 1987, Brenda filed a petition for dissolution of marriage. The case proceeded to trial. Following trial, the district court entered its findings of fact, conclusions of law, and decree of dissolution.

The district court awarded custody of the parties' children to Brenda, subject to reasonable visitation for Ferral. Ferral was ordered to pay $400 per month child support. The district court determined the homestead and adjoining lot as marital property and valued it at $124,000. The court awarded this property, as well as the debt obligation, to Ferral. In return, Brenda was granted a financial lien on the homestead property in the amount of $15,000 to be paid by Ferral in $5,000 installments on July 1, 1990, 1992 and 1994. Ferral was also awarded eighty acres of property he inherited prior to the marriage. In addition, Ferral was obligated to pay the Visa bill of approximately $1,500. Ferral appeals. We affirm the property division and modify the child support.

**I. Scope of Review.** To resolve the issues presented by the parties, we turn to well-established principles. Our scope of review is de novo. Iowa R. App. P. 4.

Although not bound by the trial court's determination of factual findings, we will give considerable weight to them, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7).

II. **Property Award.** The criteria governing property division are now contained in Iowa Code section 589.21. The determination as to what constitutes an equitable property division cannot be reduced to precise mathematical formulas. The courts strive to make a just and equitable award under the unique circumstances of each case. Among the factors to be considered are the parties' respective incomes, educations, and earning capacities; the length of the marriage; the contributions and sacrifices made by each toward the acquisition of the property during the marriage; the sources of the property; the respective parties' needs; their social position and living standards both before and during the marriage; their physical and mental health and life expectancies; the tax consequences to each party; and such other factors as may reasonably enter into any division. See In re Marriage of Wallace, 315 N.W.2d 827, 830 (Iowa App. 1981).

We determine the trial court's division of property is just and equitable. The cash settlement of $15,000 to Brenda is appropriate. We do not disturb the trial court's imposition of a financial lien for Brenda on the homestead property awarded to Ferral. We affirm the trial court's installment payment requirements also.

**III. Child Support.** It is well established that both parents have a legal obligation to support their children. Iowa Code § 598.21(4); In re Marriage of Fleener, 247 N.W.2d 219, 221 (Iowa 1976). The obligation to support should be apportioned according to the ability of each parent to contribute. In re Marriage of Bornstein, 359 N.W.2d 500, 504 (Iowa App. 1984). In establishing child support the courts are to consider the financial resources of the child; the financial resources of both parents; the standard of living the child would have enjoyed had there not been a dissolution; the desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having physical care of the child; the cost of day care, if it is needed; the physical and emotional health needs of the child; the child's educational needs; the tax consequences to each party; the amount and duration of any spousal support orders; and such other factors that the court may determine to be relevant in an individual case. In re Marriage of Byall, 353 N.W.2d 103 (Iowa App. 1984).

Ferral incurs approximately $336 expenses per month in overnight lodging in his employment. We deduct this amount from his net monthly income of $1,538.89 for determining a base upon which to compute his child support obligation. This base is a monthly net income of $1,202.89. Brenda's net monthly income is approximately $940.78.

The Iowa Supreme Court, on September 29, 1989, entered an order prescribing uniform child support guidelines pursuant to federal Family Support Act of 1988, Pub. L. No. 100-485. These guidelines indicate Ferral should pay $307 per month child support for two children and $213 per month child support for one child. Based upon the net monthly income and obligations of each parent, we find no compelling reasons to exceed these guidelines in this case. We modify the amount of child support accordingly.

Except as to the modification of the amount of Ferral's child support obligation, we affirm the trial court's decree in all other respects.

Costs of appeal are taxed one-half to each party.

**AFFIRMED AS MODIFIED.**