IN THE COURT OF APPEALS OF IOWA

413

No. 1-67 / 90-936

JERRI SHOLD,

Appellee,

vs.

TERRY GORO,

Appellant.

FILED
SEP 24 1991
CLERK SUPREME COURT

Appeal from the Iowa District Court for Black Hawk County, John Bauercamper, Judge.

Terry appeals from the district court determination he owes Shold $23,808.15. **AFFIRMED AS MODIFIED.**

John J. Hines and Samuel T. Beatty of Mosier, Thomas, Beatty, Dutton, Braun & Staack, Waterloo, for appellant.

Leslie Knock of Reed-Merner and Mershon, Snow & Knock, Cedar Falls, for appellee.

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

OXBERGER, C.J.

Jerri Shold and Terry Goro began an affair in April 1978. Both were married, however, Shold was separated from her husband and thereafter divorced. Goro remained married. In June 1981 Shold offered Goro money to help him move out of his family's home. Goro accepted. In October 1982 Shold issued a check designated "loan" on the memo portion of the check for Goro's attorney fees arising from his divorce case. Goro repaid this loan in full. On December 10, 1982, Shold issued another check with the same designation "loan" for $1,000.

Goro obtained his divorce in October 1982. Shortly thereafter, the parties began to cohabit and remained as such until April 1985. During this period it is not disputed that Shold contributed the majority of the funds for moving expenses to and from California, rent, food, gas, and other costs of living. Shold acknowledges there was no express agreement by Goro to repay her at a certain time under any certain conditions, but now asserts these expenditures were intended to be loans. Goro disputes the classification of these expenditures as loans.

The district court initially denied relief to Shold, but the Iowa Supreme Court reversed this ruling. Shold v. Goro, 449 N.W.2d 372 (Iowa 1989). The supreme court held that Shold was entitled to recover any sums which were actually loans rather than gifts. The supreme court

remanded to district court for a determination of the precise amount advanced by Shold as loans, and also for a determination of the amount of credits Goro might be entitled to receive due to his partial payments or to forgiveness of certain debts. Upon remand, the district court determined that Shold was entitled to $23,808.15. Goro has now appealed from this conclusion upon remand.

The supreme court, in its remand order stated;

> Shold is entitled to a judgment against Goro for all of the amounts advanced by her as loans, subject to any credits by reason of any forgiveness of indebtedness by Shold or payments by Goro. Shold v. Goro, 449 N.W.2d 372, 374 (Iowa 1989). (emphasis added)

Upon considering the case on remand, the trial court noted.

> The Court is unsure as to whether the supreme court intends that Jerri should recover all sum advanced by her to Terry, subject to the indicated credits, or whether Jerri should recover only those sums advanced by check marked "loan or "LN". If the former is what the court intends, Jerri should recover the sum of $1,000. If the latter is what the court intends, Jerri should recover $23,808.15.

Goro contends the court erred in classifying all advances by Shold for expenditures during the relationship as loans. We agree.

The trial court was required on remand to determine which amounts advanced by Shold were loans, which of those loans were forgiven by her and any amounts Goro repaid on those loans. Goro argues and we agree, had the supreme court determined that Shold was entitled to recover for all

advances, without consideration of the nature of the transaction as a loan, the court would have so indicated and there would have been no need to remand the case.

On at least one prior occasion in this party's relationship, Shold advanced money to Goro for his attorney fees and noted that advance as a loan on the check. This precedent of recognizing her advances to Goro as loans was again followed when she loaned him $1,000 on December 10, 1982.

We hold the total loan amount to be repaid by Goro to Shold is $1,000.

Each party will pay his or her own attorney's fees. Cost are taxed to the appellant.

AFFIRMED AS MODIFIED.