

IN THE COURT OF APPEALS OF IOWA

No. 2-175 / 11-1113
Filed March 28, 2012

**IN RE THE MARRIAGE OF SOOKDEO ANANT
AND RAMKALLI SHANTI ANANT**

**Upon the Petition of
SOOKDEO ANANT,**
Petitioner-Appellee,

**And Concerning
RAMKALLI SHANTI ANANT,**
Respondent-Appellant.

Appeal from the Iowa District Court for Black Hawk County, James L. Beeghly, Judge.

Ramkalli Shanti Anant appeals from the district court's ruling dissolving her marriage to Sookdeo Anant. **AFFIRMED.**

Teresa A. Rastede of Dunakey & Klatt, P.C., Waterloo, for appellant.

Laura J. Parrish of Miller, Pearson, Gloe, Burns, Beatty & Parrish, P.L.C., Decorah, for appellee.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

VOGEL, P.J.

Ramkalli Shanti Anant (“Shanti”) appeals from the district court’s ruling dissolving her marriage to Sookdeo Anant. Shanti asserts the district court erred in (1) ordering her to pay a cash equalization payment of \$80,000 and (2) failing to evenly assign a debt for the parties’ minor son’s dental work. Both parties also urge they should be awarded appellate attorney fees. Because we find the cash equalization payment was equitable and the dental debt was addressed under the dissolution decree, we affirm. We deny both parties’ requests for appellate attorney fees.

I. Background Facts and Proceedings

Sookdeo and Shanti Anant were married in Trinidad and Tobago in 1984. The parties have three children, only one of whom, Shane, is a minor. At the time of trial, Sookdeo was fifty years old and worked as an electrical engineer at Case New Holland in New Holland, Pennsylvania. Shanti was forty-nine years old, lived in Iowa, and worked for a third-party auditing company performing food safety audits. During the parties’ marriage, the parties lived in Trinidad and Tobago, Canada, and the United States. The parties acquired real property, including houses, in all three countries. The parties have held onto the property in Trinidad and Tobago and Canada as rental/investment properties. The parties also have rental/investment properties in Iowa.

The parties separated in 2007. On December 21, 2009, Sookdeo filed a petition for dissolution of marriage and the matter came on for trial on May 9, 2011. On May 16, 2011, the district court issued its ruling in which the court determined physical care of the minor child, ordered Sookdeo to pay Shanti child

support in the amount of \$650 per month until Shane completes high school, ordered Sookdeo to provide medical support coverage for Shane as defined under Iowa Code section 252E.1(7) (2009), divided the parties' assets and liabilities, and ordered Shanti to pay Sookdeo \$80,000 "to make the division award more equitable." On May 26, 2011, Shanti filed a motion pursuant to Iowa Rule of Civil Procedure 1.904 to amend and enlarge, requesting to reopen the record for the court to reconsider the equalization payment awarded to Sookdeo, revise the fair market value of the Madison Street property, give Shanti credit for student loans attributed to her to reduce the equalization payment, and award Shanti alimony due to her medical condition. Sookdeo resisted and the district court overruled the motion. Shanti appeals.

II. Standard of Review

A decree for the dissolution of marriage is reviewed in equity and our review is de novo. *In re Marriage of Tigges*, 758 N.W.2d 824, 826 (Iowa 2008). "Although we decide the issues raised on appeal anew, we give weight to the trial court's factual findings, especially with respect to the credibility of the witnesses." *In re Marriage of Witten*, 672 N.W.2d 768, 773 (Iowa 2003).

III. Cash Equalization Payment

Shanti argues the district court erred in ordering her to pay Sookdeo an \$80,000 equalization payment. Upon dissolution, the parties to a marriage are entitled to a "just and equitable share of the property accumulated through their joint efforts." *In re Marriage of Hoffman*, 493 N.W.2d 84, 87 (Iowa Ct. App. 1992). In determining what constitutes a "just and equitable share" of property, Iowa courts do not require the division of property to be equal, or based on a

percentage. *In re Marriage of Wendell*, 581 N.W.2d 197, 199 (Iowa Ct. App. 1998). Additionally, the court dividing the property is to consider the factors set forth in Iowa Code section 598.21(5). *In re Marriage of Dieger*, 584 N.W.2d 567, 568 (Iowa Ct. App. 1998).

A. Canadian Property

Shanti first contends the district court erred in failing to consider the parties' 2007 oral agreement as to the Canadian property and the \$50,000 payment from Shanti to Sookdeo in reliance on the agreement. The district court valued the Canadian property at \$340,000. Our supreme court has held that "assets should . . . be given their value *as of the date of trial*." *In re Marriage of Keener*, 728 N.W.2d 188, 193 (Iowa 2007) (emphasis added). In addition,

[b]ecause of the difficulty surrounding valuation, appellate courts give much leeway to the trial court. A trial court's valuation will not be disturbed when it is within the range of evidence. Moreover, appellate courts defer to a trial court's valuations when accompanied by supporting credibility findings or corroborating evidence.

Id. at 194.

While Shanti focuses her argument on her 2007 payment to Sookdeo, we recognize that the district court values the assets as of the date of trial. *Id.* at 193. The only evidence of the value of the Canadian property was presented by Sookdeo, in the form of a "home market report" prepared by a real estate company in Canada. This report was dated April 2011 and valued the Canadian property between \$340,000 to \$390,000. In addition, the figure used by Sookdeo in his affidavit of financial status was the lower end of the market report value, \$340,000. Shanti did not file an affidavit of financial status or provide any other

support for her claimed valuation. As the district court's finding of \$340,000 was within the permissible range of evidence, we will not disturb its valuation. We therefore affirm as to this issue.

B. Profit from Investment Property

Shanti next asserts the district court erred in failing to take into account the profit from the 2009 sale of the investment property at 122 Leland. She claims the profit of approximately \$4300 should have been attributed to Sookdeo in the division of assets and liabilities "in order to be fair and equitable."¹ This court has noted that to review historical financial transactions within a marriage "with any degree of accuracy, we would be forced to delve into a complete accounting of the parties' income and expenses during the marriage. We find that an impossible task, uncalled for under Iowa law." *In re Marriage of Driscoll*, 563 N.W.2d 640, 643 (Iowa Ct. App. 1997). We have further held:

Instead, the trial court makes an assessment of whether there appears to be an accurate accounting of the marital assets at the time of trial. The court makes its findings from both the evidence presented and the credibility of the witnesses. An equitable distribution is then made. We find this is the accepted manner to divide marital assets according to our case and statutory law.

Id. Because our task is not to go back and perform a complete review of the intra-marital transactions occurring long before trial, we are confident that the \$4300 profit from the property at 122 Leland was accounted for by the district court, be it in the form of cash, other investment property, or other assets owned

¹ As of the date of trial, neither of the parties owned the investment property at 122 Leland, which was sold in the 2009 tax year. As a result of the sale, Sookdeo—who filed an individual income tax return for the 2009 tax year—had an ordinary gain of \$10,293, and a capital gain of \$2000, attributable to the property.

by Sookdeo as of the time of trial.² We therefore do not disturb the district court's ruling as to this issue.

C. Inequity of Equalization Payment

Shanti next alleges, "Based on the net awards to the parties, the many financial obligations of Shanti when compared to Sookdeo, and that the parties' credit is hurt due to multiple foreclosures," it was inequitable for the district court to order a cash equalization payment. Because we find the district court made a fair and accurate accounting of the marital assets at the time of trial, and the cash equalization payment serves to ensure an equitable distribution is made, we affirm the district court. *See id.* (explaining the role of the district court in making an equitable distribution between the parties to a dissolution proceeding).

IV. Dental Debt

Shanti maintains the district court identified a debt for dental work for the parties' minor son, but failed to assign the debt evenly between the parties. Subsection four of the "Judgment and Decree" section of the district court's order provides,

Sookdeo shall provide medical support coverage as defined in Iowa Code section 252E.1(7). "Uncovered medical expense" shall mean medical expenses for Shane not covered by insurance. *Shanti shall pay the first \$250.00 per year of uncovered medical expenses. Uncovered medical expenses in excess of \$250.00 per year shall be paid 50 percent by each of the parties. "Medical expenses" shall include, but not be limited to, costs for reasonably necessary medical, orthodontia, dental treatment, physical therapy,*

² There may be occasions when the trial date is not appropriate to determine the valuation of assets. *Driscoll*, 563 N.W.2d at 642. For example, where parties have been separated for many years prior to filing a petition for the dissolution of marriage, an alternative valuation date is appropriate. *See, e.g., In re Marriage of Tzortzoudakis*, 507 N.W.2d 183, 186 (Iowa Ct. App. 1993) (noting parties had been separated for *thirty years* prior to filing petition for dissolution of marriage). Although we are not confined to a set date, we find no reason to depart from using the trial date in this case.

eye care including glasses or contact lenses, mental health treatment, substance abuse treatment, prescription drugs, and any other uncovered medical expense.

(Emphasis added). Under the decree, the debt is distributed evenly between the parties, except that Shanti will pay the first \$250 of any “uncovered medical expenses.” Because “uncovered medical expenses” is defined by the district court to include orthodontia and dental treatment, such costs were appropriately addressed under the decree. We therefore affirm as to this issue.

V. Appellate Attorney Fees

Both parties request appellate attorney fees. Sookdeo argues he should be awarded appellate attorney fees as he was obligated to defend the matter on appeal, despite the district court’s equitable division of the parties’ assets. Shanti asserts she has “no capacity” to pay the equalization award to Sookdeo, much less afford the cost of this appeal.

“An award of appellate attorney fees is not a matter of right, but rests in our discretion.” *Wendell*, 581 N.W.2d at 201. In determining whether appellate attorney fees are warranted, we consider the needs of the requesting party, the other party’s ability to pay, and whether the requesting party was required to defend the district court’s ruling on appeal. *Id.* Upon consideration of the financial circumstances of the parties, we deny both parties’ requests for appellate attorney fees. Costs on appeal are assessed one-half to each party.

AFFIRMED.