

No. 12975

IN THE SUPREME COURT OF THE STATE OF MONTANA

1975

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INA C. PERKINS,

Plaintiff and Appellant,

-vs-

THOMAS N. PERKINS,

Defendant and Respondent.

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Appeal from: District Court of the Third Judicial District,  
Honorable Robert J. Boyd, Judge presiding.

Counsel of Record:

For Appellant:

Knight, Dahood, Mackay and McLean, Anaconda, Montana  
Edward D. Yelsa argued, Anaconda, Montana

For Respondent:

Daniels and Mizner, Deer Lodge, Montana  
M.K. Daniels argued, Deer Lodge, Montana

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Submitted: September 12, 1975

Decided: SEP 24 1975

Filed: SEP 24 1975

  
Clerk

Mr. Justice Frank I. Haswell delivered the Opinion of the Court.

In a divorce action in the district court, Deer Lodge County, Hon. Robert J. Boyd sitting without a jury, judgment was entered awarding the wife a divorce, custody of two minor children, and providing for a division of the marital property. The husband appeals from the property division.

The district court adopted the wife's proposed findings of fact and conclusions of law. Judgment was entered in conformity therewith as follows: (1) The sellers' interest of the parties in a contract for deed on some property in Opportunity, Montana, was set aside in trust for the two minor children of the marriage, (2) a Great Lakes Mobile Home in the name of the wife was set aside for her use, (3) a Paramount Mobile Home in the name of both parties was ordered sold and the proceeds equally divided between husband and wife, (4) a 1965 Buick and a 1950 International pickup in the names of both parties was set aside for the use of the wife and the two minor children, (5) the farm equipment owned by both parties was set aside for the use of the husband, (6) two parcels of land in the Opportunity subdivision in the wife's name was set aside for her use and disposition.

The husband requests us to review on appeal the disposition of the two trailer houses and the two parcels of land in the Opportunity subdivision.

The district court's adjustment of the property rights of the parties under its equitable powers will not be disturbed on appeal except for an abuse of discretion. *Aksamit v. Aksamit*, 162 Mont. 266, 511 P.2d 10; *Cook v. Cook*, 159 Mont. 98, 495 P.2d 591. We have reviewed the record and find no abuse of discretion.

Each case must be considered by the district court individually with an eye to its unique circumstances. *Cook v. Cook*, *supra*. Here the husband was financially unable to contribute to

the support of the minor children, so the wife was granted a proportionately larger share of the marital property to offset her increased obligation.

The judgment of the district court is affirmed.

*Frank H. Haswell*

Justice

We concur:

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Chief Justice

*Wesley Castles*

*Oliver Emory Harrison*

*Gene S. Daly*

Justices