IN THE COURT OF APPEALS OF IOWA

No. 6-617 / 95-2013

IN RE THE MARRIAGE OF YVONNE M. LOVE AND DAVID LOVE

Upon the Petition of
YVONNE M. LOVE,
Appellee,

And Concerning
DAVID LOVE,
Appellant.

FILED
APR 30 1997
CLERK SUPREME COURT

Appeal from the Iowa District Court for Black Hawk County, James C. Bauch, Judge.

Respondent appeals various economic provisions of the parties' dissolution decree. **AFFIRMED.**

Henry Hamilton, Alfredo Parrish, and Paige Fiedler of Parrish, Kruidenier, Moss, Dunn & Montgomery, Des Moines, for appellant.

Terry Diane Parsons of Olsen, Parsons & Ament, Cedar Falls, for appellee.

Heard by Huitink, P.J., and Streit and Vogel, JJ.

VOGEL, J.

David and Yvonne Love were married on September 6, 1976. They have two children, David, born October 18, 1976, and Devon, born March 24, 1980. David appeals various economic provisions of the parties' dissolution decree and contends the property divisions of the decree are inequitable.

Scope of review. In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. *In re Marriage of Steenhoek*, 305 N.W.2d 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of the witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

I. Property division. To make an equitable distribution of assets, the court must first determine what assets are available to be allocated between the spouses. To do this, the court must identify and value the assets of the parties, both jointly and separately. *In re Brainard*, 523 N.W.2d 611, 616 (Iowa App. 1994). The value of the assets should then be determined as of the date of trial. *Locke v. Locke*, 246 N.W.2d 246, 252 (Iowa 1976); *In re Marriage of McLauglin*, 526 N.W.2d 342, 344 (Iowa App. 1994).

Next, a determination must be made as to the equitable allocation of those assets. Assets are then equitably, not necessarily equally, divided under the circumstances after considering the criteria delineated in Iowa Code section 598.21(1)

(1995). In dividing marital assets, we give consideration to assets "accumulated through the joint efforts of the parties." *In re Marriage of Hass*, 538 N.W.2d 889, 892 (Iowa App. 1995); *see In re Marriage of Havran*, 406 N.W.2d 450, 452 (Iowa App. 1987); *In re Marriage of Hitchcock*, 309 N.W.2d 432, 437 (Iowa 1981).

A. Value of corporation. David contends the trial court overvalued his construction business, "Love Enterprises, Inc.," at $100,000. The court must first establish a general value for the corporation to allocate its assets and debts. *See In re Marriage of Bethke*, 484 N.W.2d 604, 607 (Iowa App. 1992). In examining property valuations, we have generally upheld values set by the trial courts if they are "within the permissible range of evidence." *See Brainard*, 523 N.W.2d at 616; *In re McKamey* 522 N.W.2d 95, 97 (Iowa App. 1994).

David contends that Love Enterprises, Inc. has no value. Neither David nor Yvonne offered expert testimony regarding the value of the business. David's Independent Accountant's Report dated September 6, 1995, was based on incomplete, interim financial information. Without the benefit of audited financial reports, the accountant gave the following caveat:

> Management has elected to omit substantially all of the disclosures and the statements of cash flows required by generally accepted accounting principles. If the omitted disclosures and the statements of cash flows were included in the financial statements, they might influence the user's conclusions about the company's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

The accountant determined the stockholder's equity to be a negative $32,984. This figure did not include as an asset the accounts receivable or work in progress which correspond with the large amount of supplies purchased (rock at $166,419.19) at the beginning of the construction season. Also available to the court were tax returns, including the most recent corporate federal income tax return, from 1993, reflecting gross receipts of $563,320, with retained earnings of $109,326.

Yvonne was familiar with the corporate books as she assisted in the bookkeeping from 1981 to 1986. The court adopted Yvonne's assessment of the business at $100,000. The court reasoned:

> It would be an understatement for the court to observe that the affairs of the corporation are rather convoluted. . . [T]he evidence reflects that the corporation bought a new Chevy pickup truck for approximately $30,000 as well as two other pickups, and the corporation also bought a pickup for his oldest son in the amount of approximately $13,500. In addition, the corporation paid David $450 per week and [Devon] $200 per week since June, 1995. . .[T]his is a business that has the potential to do very well and seems to have little problems in paying the debt load. The court finds that the corporation has a value of $100,000 having considered all of the matters submitted.

When we couple the scant financial information with the credibility of the witnesses, we must conclude the district court's $100,000 valuation of the corporation was within the permissible range of evidence available to the trial court. We affirm on this issue.

B. Yvonne's stock and retirement benefits. David contends the district court acted inequitably as it did not assign values to Yvonne's stock and retirement

benefits. The record reflects Yvonne had only recently begun participating in her U.S. West PAYSOP retirement fund (no vested value) and her AT&T stock was valued at $390. The general values of these assets is nominal and, thus, would not significantly impact the property division.

C. Overall property settlement. David argues the overall property settlement was inequitable. Many items of personal property were divided with no assigned valuations; David did not object to this at trial. Furthermore, as the district court appropriately took into account the factors for equitable property division under Iowa Code section 598.21(1), we find this claim without merit.

Having considered all the issues on appeal, we affirm the decision of the district court.

AFFIRMED.