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IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ESTHER EISENBACH AND HARRY EISENBACH, M.D.

Upon the Petition of	)	
ESTHER EISENBACH,	)	
Petitioner-Appellant,	)	Filed December 23, 1980
And Concerning	)	
HARRY EISENBACH, M.D.,	)	0-335 / 2-64596
Respondent-Appellee.	)	

Appeal from Johnson District Court - Thomas M. Horan, Judge.

Petitioner wife appeals from economic provisions of the parties' dissolution decree. Respondent husband cross-appeals termination provision of alimony award. MODIFIED AND AFFIRMED.

John D. Cray of Cray, Walter, Cray, Loeschen & Goddard, Burlington, for petitioner-appellant.

Lawrence F. Scalise and Ann Fitzgibbons of Scalise, Scism, Gentry, Brick & Brick, Des Moines, for respondent-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

Petitioner, Esther Eisenbach, appeals from economic provisions of the parties' dissolution decree. Respondent, Harry Eisenbach, cross-appeals the termination provisions of the alimony award. We affirm and modify.

Esther and Harry were married in 1971 when Harry was in the midst of his medical training and Esther was working toward an undergraduate degree in interior design. Both were able to achieve their academic endeavors with the financial support of both sets of parents. In mid-1975, a child, Benjamin, was born of the marriage. Prior to that time, Harry's parents had ceased to contribute to their support. Shortly after Benjamin's birth, Harry entered an internship program in Detroit and as yet had no earnings. Throughout the marriage, Esther and Harry located in several places to allow Harry's pursuit of medical specialties and employment. Esther was only able to provide limited financial support during this time. Her family still furnished the bulk of the money. In 1977, Harry began his medical earnings by employment in emergency wards, from which earnings Esther and Harry were able to save $5,000 for a down payment on a house in Iowa City, where Harry enrolled in further specialized study. The title to the house was in Harry's father's name. At the time of the dissolution virtually no other tangible assets had been accumulated by the parties. In 1978 Harry moved to California to establish or join a medical practice there. Esther chose not to make the move and subsequently filed for dissolution.

The trial court determined an award of $400 per month permanent alimony terminating only at Esther's death would be the equitable method to provide for Esther. The court further ordered $350 per month child support. These provisions are being appealed. Our review is de novo. Iowa R. App. P. 4.

I. Division of Property. Esther argues a lump sum property settlement is justified because of her family's financial support during her husband's education leading to a medical degree. She cites as authority In re Marriage of Horstmann, 263 N.W.2d 885 (Iowa 1978). In that case concerning a law graduate and his wife, the court found "it is the potential for increase in future earning capacity made possible by the law degree and certificate of admission conferred upon the husband with the aid of the wife's efforts which constitutes the asset for distribution by the court. Id. at 891 (emphasis added). The wife's efforts and sacrifice during this time with the expectation to be better off in the future as a result enables the court to consider the wife as a co-holder of this asset when few other assets are available. Id. at 887-88.

In the instant case the financial sacrifice came primarily from Esther's parents. The court in Horstmann recognized this third party support as the parents in that case contributed nearly half of the total sum. Id. at 886. The trial court in Horstmann likened this contribution to an advancement on an inheritance.

Esther sacrificed her career because of parenting responsibilities, health, and frequent moves to the point where it will take some time to regain prime productivity in the interior design field. Harry plans to begin his own practice where he contemplates netting in excess of $50,000 within a few years. At present he is capable of earning over $28,000 by part time emergency room employment.

We find a lump sum division of the assets including Harry's potential earning capacity is justified under these circumstances. Esther's parents provided funds by checks totaling $21,825 and payment of moving expenses totaling $2,400. Throughout the years many payments were in cash. Esther testified the total amount of her parents' contribution was $75,000. Harry testified the amount was half that sum. We find the evidence substantiates Esther's parental contribution of $37,500.

In addition, the $5,000 down payment accumulated during Harry's employment in Detroit offers an asset to be divided. We find a lump sum of $40,000 equitably represents Esther's share of the marital assets. Therefore, we order the same to be paid by Harry in installments of $8,000 over five years. The first installment shall be due on or before July 1, 1981, and subsequent installments on the anniversary thereof. Interest shall be applied to the unpaid balance at twelve percent per annum.

II. Alimony. In light of the property division, alimony shall be reduced to $150.00 per month. This award shall terminate in the event of Esther's remarriage as well as death.

III. Child Support. Although child support, alimony and property division serve different purposes, they are closely related and may be considered in toto to determine equitable awards in a marriage dissolution. In re Marriage of Peterson, 227 N.W.2d 139 (Iowa 1975).

We find $350 per month in child support to be adequate in view of Harry's present earning capacity of $28,000 per year and the income and needs of Esther and Benjamin.

We modify the alimony award as herein stated and find that there are assets of the marital relationship to be divided as provided above.

AFFIRMED AS MODIFIED.