FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-222 / 89-967

237

IN RE THE MARRIAGE OF JUDY M. FRIDLEY AND ROBERT ALLEN FRIDLEY

Upon the Petition of **JUDY M. FRIDLEY,**

Appellant,

And Concerning **ROBERT ALLEN FRIDLEY,**

Appellant/Cross-Appellee.

Appeal from the Iowa District Court for Muscatine County, James R. Havercamp, Judge.

Both parties appeal from the district court's award of property and alimony in a dissolution proceeding. **AFFIRMED IN PART; MODIFIED IN PART; AND REMANDED.**

J.W. Conway of J.W. Conway Law Offices, Muscatine; and Emil Trott, Jr. of Barrett & Trott, Des Moines, for appellant.

Gerald J. Kucera of Tom Riley Law Firm, P.C., Cedar Rapids, for appellee.

Considered by Donielson, P.J., and Schlegel and Hayden, JJ.

PER CURIAM

The district court dissolved the parties' twenty-three year marriage on May 26, 1989. At the time of trial Robert was 43, Judy was 41. The parties' two children are now adults and no provision for child support was needed. The court proceeded to divide the parties' assets and awarded rehabilitative alimony to Judy in the monthly amount of $650 for a period of five years. Robert was required to pay $10,248 towards the parties' outstanding debts and $1,300 towards Judy's attorneys fees. Both parties appeal. Their principal dispute centers around property gifted and bequeathed by Robert's mother.

Our scope of review is de novo. Iowa R. App. P. 4. No hard and fast rules govern the economic issues in a dissolution of marriage proceeding. See In re Marriage of Vrban, 359 N.W.2d 420, 423 (Iowa 1984).

I. The Property Award. In making its division of the parties' debts and assets, the court closely examined the gifts and bequests made to Judy by Robert's mother, Mildred. Mildred had owned two farms consisting of 300 acres she had inherited from Robert's father, who had died in 1959. In 1975, Mildred gave the house and eighteen surrounding acres on the homestead to Robert and Judy as tenants in common. When Mildred's health began to fail, she set up an estate plan whereby in 1978 and 1979 she sold all her remaining land to her two sons and their respective

wives by installment contracts. The plan provided the sons would pay the interest due yearly in order to keep Mildred in a nursing home, and Mildred would gift the principal on the contracts to the sons and their wives at a $6,000 yearly rate. This would allow Mildred to take advantage of the gift tax laws.

This plan was in effect until Mildred died in 1985. In her will she devised to Robert and Judy the homestead farmland as tenants in common.

We hold the district court correctly concluded Mildred's transfers created an undivided one-half unconditional gift to Judy. We reject Robert's arguments all the property gifted or inherited from his mother should be set off to him. By the same token, Judy is not entitled to share the $24,043 in cash Robert inherited from Mildred. Iowa Code § 598.21(2).

We reject both parties' arguments the property award was inequitable. When the value placed on the assets by the trial court is within the permissible range of evidence, we will not disturb those values on appeal. See In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). We note the district court was not given a chance to correct what Robert believed were mathematical errors because Robert waived his 179(b) motion. Even if we adopted his calculations, we do not disturb the property division.

The criteria governing property division are now contained in Iowa Code section 589.21. The determination as to what constitutes an equitable property division cannot be reduced to precise mathematical formulas. In re Marriage of Webb, 426 N.W.2d 402, 405 (Iowa 1988). The courts strive to make a just and equitable award under the unique circumstances of each case. We believe that was done in this case and we will not disturb the awards on appeal.

II. Alimony. For her cross-appeal, Judy suggests her alimony should be increased to $1,200 per month. We disagree.

Alimony is an allowance to the ex-spouse in lieu of a legal obligation to support that person. See In re Marriage of Hitchcock, 309 N.W.2d 432 (Iowa 1981). Alimony is not an absolute right; its award depends upon the unique circumstances of each particular case. In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976).

We consider property division and alimony together in evaluating their individual sufficiency. In re Marriage of Dahl, 418 N.W.2d 358, 359 (Iowa App. 1987); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). Each partner in the marriage is "entitled to a just and equitable share of the property accumulated through their joint efforts." In re Marriage of Havran, 406 N.W.2d 450, 452 (Iowa App. 1987).

At the time of trial, Robert had worked for Bandag, Inc. for twenty-one years and had reached assistant plant manager status. His net biweekly earnings was $1,125. He also received additional farm rent and ASCS payments totaling $12,500 annually. Robert has back and neck problems which require chiropractic treatments and suffers from a fifty percent hearing loss. Though involved in farm-related duties, Robert has not engaged in actual farming for many years.

Judy devoted the majority of her married years to raising the parties' children and did not work outside of the home to any great extent. She is a high school graduate and has some secretarial skills. She wishes to continue her education with a goal of achieving a degree as an education counselor for college counseling of adults. She takes medicine for chronic pain and stress and limits her education to five hours per semester. The district court was correct in awarding her rehabilitative alimony so she may find alternate employment. In light of the other assets she received and her ability to work, we affirm the alimony award.

The district court, however, miscalculated its addition of Robert's Central State Bank savings and checking accounts. The district court found Robert had $5,500 in the two accounts, rather than the correct amount of $550. We therefore modify the decree to reflect this correction. The parties' awards of marital assets should be adjusted

accordingly. The district court will enter an appropriate order, making the necessary adjustments. We do not retain jurisdiction.

Costs on appeal are to be evenly divided. Each of the parties shall pay his or her own attorneys fees.

AFFIRMED IN PART; MODIFIED IN PART; AND REMANDED.