

IN THE COURT OF APPEALS OF IOWA

No. 1-619 / 91-480

IN RE THE MARRIAGE OF VIRGINIA A. LANGDON AND MAY 28 1992
LAWRENCE J. LANGDON

FILED

CLERK SUPREME COURT

Upon the Petition of

VIRGINIA A. LANGDON,

Appellee,

And Concerning

LAWRENCE J. LANGDON,

Appellant.

586

Appeal from the Iowa District Court for Polk County,
Jack D. Levin, Judge.

Husband appeals from a dissolution decree, challenging
economic provisions. **AFFIRMED.**

Theodore F. Sporer, Des Moines, for appellant.

Thomas W. Andrews of Dickinson, Throckmorton, Parker,
Mannheimer & Raife, Des Moines, for appellee.

Considered by Oxberger, C.J., and Donielson and
Schlegel, JJ.

OXBERGER, C.J.

Virginia and Lawrence Langdon were married in 1972. The marriage was dissolved on November 7, 1990. Virginia is an elementary school teacher who earns a net income of \$23,850 per year. Lawrence has been a teacher in the past but is presently employed by Job Service of Iowa. He earns a net income of \$18,537 per year.

Lawrence, was forty-four years old at trial time. He has a history of heart attacks and coronary artery disease. Lawrence expects further heart trouble and fears he will become unable to hold employment in the near future.

The only issues on appeal are economic. The parties' primary assets were their house and their IPERS retirement accounts. The court valued the house at \$115,000. The house is subject to a mortgage debt of \$83,268, leaving a net equity of \$31,732. Virginia's IPERS account contains \$18,010. Lawrence's IPERS account contains \$6,906.24. The district court awarded each party his or her own IPERS account. Virginia was awarded the house, subject to its mortgage debt and two liens in favor of Lawrence. One lien is for \$15,866. This amount is half the parties' equity in the house. The other lien is for \$5,551.88. This amount is half of the amount Virginia's IPERS account exceeds Lawrence's IPERS account. Lawrence's liens become payable two months after the youngest child turns eighteen years old or graduates from high school, whichever is later.

The district court declined to award alimony or attorney's fees to either party. Lawrence has appealed from the dissolution decree.

SCOPE OF REVIEW: We review de novo. Iowa R. App. P. 4. The partners in the marriage are "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). The distribution of the property of the parties should be that which is equitable under the circumstances after consideration of the criteria codified in Iowa Code section 598.21(1). In re Marriage of Estlund, 344 N.W.2d 276, 280 (Iowa App. 1983).

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).

ALIMONY: We first consider whether the trial court was correct in refusing to award alimony. Lawrence contends the district court should have awarded him alimony. He argues primarily that he should receive alimony because he is likely to become physically disabled in the near future due to his heart disease. Lawrence requests alimony of \$50 per month. He suggests the amount could be modified upward if he does become disabled. Virginia questions both the severity of Lawrence's heart disease and the likelihood of complete disability in the near future. We affirm the trial court on this issue.

PAYMENT OF LIENS: Lawrence next contends at least part of his two liens against the house should be made payable immediately. He argues that due to his heart disease, he is unlikely to live long enough to benefit from the liens if the district court's payment schedule is left intact. It is apparent the trial court refused to speculate on Lawrence's future health. The court directed the lien be paid in full two months after the youngest child graduates from high school or becomes eighteen, whichever occurs latest. Virginia has physical custody of the children. Her ongoing responsibility will be a continued financial consideration until they reach eighteen and perhaps beyond that point in their lives. In light of the circumstances of this case, we will not disturb the trial court's order to delay payment.

VIRGINIA'S CLAIMS: Virginia challenges the district court's division of property in two respects. She argues the trial court incorrectly valued the home and that Lawrence's lien, which equals half of the amount of disparity in the parties IPERS accounts, should be set aside. She has not filed a notice of cross-appeal. Assuming the issues were properly before this court, we would not disturb the trial court's determination.

We have considered all issues presented and affirm the trial court. Each party shall pay his or her own attorney's fees. Costs are taxed to the appellant.

AFFIRMED.