

FILED

AUG 29 1985

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF PHILIP H. DORFF, JR. AND DEBRA A. DORFF

**UPON THE PETITION OF
PHILIP H. DORFF, JR.,**

Petitioner-Appellee,

**AND CONCERNING
DEBRA A. DORFF,**

Respondent-Appellant.

Filed August 29, 1985

5-237
84-1426

Appeal from the Iowa District Court for Polk County -Robert O. Frederick,
Judge.

Respondent wife appeals from the decree dissolving the parties' marriage.
AFFIRMED.

Thomas J. Lewis and Ann Fitzgibbons, of Scalise, Scism, Sandre & Uhl,
for respondent-appellant.

Thomas W. George, of Christianson, Hohnbaum & George, Des Moines,
for petitioner-appellee.

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

SACKETT, J.

Petitioner Philip Dorff and respondent Debra Dorff were married in 1974. The marriage was dissolved in 1984. There were no children. At the time of dissolution, Phillip was 34 and Debra was 31. Both are in good health.

Debra has a Fine Arts Degree and is employed as a secretary, earning approximately \$14,425 a year. Philip attended law school during the marriage and is now earning approximately \$27,500 per year.

The trial court valued the parties' home at \$55,000, determined it was subject to a mortgage of \$33,500, awarded Philip the home, and ordered Philip to pay Debra \$8,250 as her share of the equity in the house. It further awarded Debra \$10,000 to be paid in four annual installments of \$2,500 each, without interest, and \$1,500 toward her attorney fees. Philip was ordered to pay his school loans of approximately \$17,000 and a debt to Debra's father of \$1,364.60. Each party was awarded a car, their own life insurance policies, and ordered to pay debts of \$2,600 to their respective parents. Debra was ordered to pay certain debts she had incurred since the parties' separation.

On appeal, respondent challenges the failure to award alimony and the division of the couple's property. Our review is de novo. Iowa R. App. P. 4.

Property division and alimony must be considered together in evaluation of individual sufficiency. They are neither made nor subject to evaluation in isolation from one another. In Re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984).

There were no children born to this marriage. Both parties were employed at various jobs during the marriage and generated nearly equal incomes during the marital years. Philip, however, did not have outside employment during his first year of law school. Debra contends she should have alimony because of the sacrifices she made during the three years Philip was in law school.

In a dissolution case where proper evidence is presented, the trial court may consider the future earnings capacities of both parties. In Re Marriage of Janssen, 348 N.W.2d 251, 253 (Iowa 1984) (citing In Re Marriage of Horstmann, 263 N.W.2d 885, 891 (Iowa 1978)). In determining those capacities, the court may consider the education, skill or talent of both parties, both in its determination of an equitable distribution of assets and property and in its determination of whether alimony should be awarded and of the amount to be awarded. Id.

In Horstman, 263 N.W.2d at 892, the wife who had assisted the husband in obtaining his legal education was awarded a lump sum and \$1.00 a year alimony after taking into consideration the husband's earning capacity based on his legal training. In Janssen, 348 N.W.2d at 254, the wife who had assisted her husband in obtaining a medical degree was awarded alimony. But while concluding the husband's professional training was a factor to be considered, the court held that a lump sum was inappropriate because of the debt obligations of the husband.

The record does not support a finding that the couple's standard of living has improved. Philip testified had he remained at the job he held prior to law school his earnings would be slightly more than he is now earning as an attorney. However, we do consider the fact that Philip's income is greater than Debra's.

Debra argues that the court should take into consideration that Philip recently inherited \$55,100. In its ruling the trial court determined this property was not subject to division, but that Philip would probably have to use some of it to pay for other provisions in the decree. Property inherited by only one party is the property of that party and not subject to division unless the failure to divide or consider inherited property would work an injustice on one of the parties. The property was recently inherited. There are no factors in the record to support an award of a portion of the property to Debra. See Iowa Code § 598.21(2) (1985); In Re Marriage of Thomas, 319 N.W.2d 209, 212 (Iowa 1982).

The trial court carefully fashioned a decree which made a nearly equal division of the parties' real estate and personal property and ordered Philip to pay his school loan of approximately \$17,000, a debt to Debra's father of \$1,364.60, and a \$10,000 lump sum to Debra. We determine it to be equitable and affirm on appeal.

Debra's request for attorney fees on appeal is denied.

AFFIRMED.