FILED
NOV 19 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF LILA L. NALAN AND JERRY NALAN

UPON THE PETITION OF	)	
LILA L. NALAN,	)	Filed November 19, 1979
Petitioner-Appellee,	)	
vs.	)	304 2-62904
JERRY NALAN,	)	
Respondent-Appellant.	)	

Appeal from Hancock District Court - L. E. Plummer, Judge.

Respondent-husband appeals the property division provisions of the decree dissolving his marriage to petitioner-wife. AFFIRMED.

Tim Pearson of Hyland, Laden & Pearson, P.C., Des Moines, for respondent-appellant.

Thomas Pronk of Templeton & Pronk, Garner, for petitioner-appellee.

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

PER CURIAM

Respondent, Jerry Nalan, appeals the property division provisions of the decree dissolving his marriage to petitioner, Lila Nalan. We affirm the decision of the trial court.

Jerry and Lila were married in August of 1964. At the time of trial they were ages 48 and 46 respectively, and both enjoyed good health. The marriage was Jerry's first and Lila's second, her previous husband of eleven years being deceased. Lila and Jerry reared her three children from her previous marriage, all of whom had reached majority at the time of trial. A decree dissolving their marriage was entered on November 13, 1978, and amended on December 4, 1978.[1] The decree awarded Jerry the following marital property: $4,000 cash payable by Lila; $3,373 in proceeds from an I.D.S. fund certificate; his coin collection; a 1973 LeMans automobile; and his share of household goods and personal property as divided by the parties. The trial court awarded Lila the following property: the couple's residential property; a $6,000 cash gift from her mother; a $5,000 I.D.S. debenture certificate; a 1974 Mustang automobile; her share of household goods and personal affects as divided by the parties; and title to a vested remainder interest in farmland, which was currently subject to a life estate interest.

On appeal, Jerry contends the trial court erred in determining the proper division of the marital assets by failing to take into consideration Lila's vested remainder interest in farmland. Our review is **de novo**. Iowa R. App. P. 4. In order to determine a fair and equitable division of the marital assets, we apply the guidelines of Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1978), as modified in In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972). While we give weight to the findings of the trial court, we will not abdicate our function as a trier **de novo** on appeal. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974).

The evidence indicates Lila, for the past four years, has been employed as secretary to a high school principal. At the time of trial, her yearly salary was approximately $4,400. She had had two years of college for which she received a two-year teaching certificate, but the certificate has expired and she would need an

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[1] The amendment to the decree ordered Jerry to vacate the couple's residential property, which had been awarded to Lila by the decree entered on November 13, 1978, by no later than 6:00 p.m., December 5, 1978.

additional two years of college before she could again become qualified to teach. During the first six years of her marriage to Jerry, she used her teaching certificate to alternate working full and half days as a kindergarten teacher. For the next five years she did some babysitting at home and helped with the census.

Jerry is employed by the Britt Community School District as a teacher. His tax return for 1977 indicates he earned in excess of $15,000 from teaching and carpentry work. He is a college graduate and has taken approximately one year of graduate school. He has been employed as a teacher in Britt since 1960.

During the course of the marriage Lila inherited from her father a remainder interest in an undivided one-half interest in 160 acres of farmland, which is currently held by her mother in a life estate. At the time of trial, Lila's mother was sixty-five years old and in good health. The farmland was appraised at $3,200 per acre. Jerry introduced evidence that placed a present valuation of the life estate of Lila's mother at age sixty-five to be .35817 of the total and the valuation of Lila's remainder to be .64183 of the total.[2]

In the conclusions of law contained in the decree of dissolution, the trial court declined to use the mortality table values presented by Jerry in valuing Lila's interest in the farmland. With respect to the table containing the valuation factors offered by Jerry, the total court noted:

> This table and the related tables appearing in Chapter 450 of the Code are tables of an average experience applying to groups for certain arbitrary purposes, such as inheritance and tax computations, by arbitrarily treating the single individual as the member of a fictitious group. A life tenant in real estate is not, by statute or any other rule, a member of such a fictitious group. Further, it should be said the accuracy of the CSO table increases or decreases in proportion to the size of the group. Its accuracy becomes nonexistent and wholly random when applied to a life tenant not subject to any statutory application. Such a random expectancy would have a fair market value so near to zero as to be unascertainable.

It is to this portion of the decree that Jerry points when he contends the trial court erred by failing to consider the value of Lila's vested remainder interest. The trial court, however, in continuing its discussion of this property interest in a later paragraph of conclusions of law contained in the decree, states:

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[2] The valuations were taken from the Department of Revenue Mortality Table contained in section 450.97, The Code 1977.

> In view of the relative earning power of the parties, his is three times that of hers; her presently reduced marketable skills; her age, which affects her earning prospects in a day of retirement programs gravitating in favor of younger entrants and consequently against older ones into the system, the Court concludes a fair property division would be the approximate division of the $20,000.00 accumulated values, constituting the amounts from their joint contributions and efforts; and that Lila's inherited properties be retained by her free of any claim of his is counterbalanced by the fact that she is denied alimony in any sum. (emphasis added)

From the language just quoted, it becomes clear that the trial court did consider the value of Lila's remainder interest when dividing the marital assets. The evidence contained in the record presents a strong argument for an award of alimony to Lila. See In re Marriage of Beeh, 214 N.W.2d 170, 174 (Iowa 1974). Lila's teaching certificate has expired and she is ill-equipped to seek a higher paying job than she currently holds. Jerry is qualified to teach school and has some carpentry skill; his earnings potential is substantially greater than that of Lila. The trial court specifically stated in its decree that the denial of an award of alimony was the result of the award to Lila of her entire interest in the vested remainder. After carefully reviewing the record, we cannot say trial court's balancing of Lila's remainder interest against an alimony award is inequitable. No fixed formula exists for making distributions of the marital assets. See In re Marriage of Cooper, 225 N.W.2d 915, 919 (Iowa 1975).

From our **de novo** review, we find no reason which would justify disturbing the trial court's division of the marital property accumulated by the parties. The decision of the trial court is therefore affirmed in all respects.

AFFIRMED.