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IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ARNOLD K. WEBSTER AND ELIZABETH J. WEBSTER

Upon the Petition of)
ARNOLD K. WEBSTER,) Filed April 21, 1981
Petitioner-Appellant,)
And Concerning)
ELIZABETH J. WEBSTER,) 0-434 / 2-64287
Respondent-Appellee.)

Appeal from Polk District Court - Louis A. Lavorato, Judge.

Petitioner husband appeals from the economic provisions of the parties' dissolution decree, asserting that the trial court overvalued certain of the parties' assets and that an award of alimony to respondent wife was consequently inappropriate. Petitioner further contends that he should receive a credit for the amount of money he paid to maintain the parties' home prior to its contemplated sale. AFFIRMED.

Robert E. Dreher of Dreher, Wilson, Adams, Jensen, Sayre & Gribble, Des Moines, for petitioner-appellant.

Dwight W. James of James & Galligan, Des Moines, for respondent-appellee.

Heard by Donielson, Acting C.J., and Snell, Carter, and Johnson, JJ. Oxberger, C.J., takes no part.

DONIELSON, J.

Petitioner Arnold Webster appeals from the economic provisions of the parties' dissolution decree, asserting that the trial court overvalued certain of the parties' assets and that an award of alimony to respondent Elizabeth Webster was consequently inappropriate. Petitioner further contends that he should receive a credit for the amount of money he paid to maintain the parties' home prior to its contemplated sale. We affirm the decree.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4.

I.

The six and one-half year marriage of the parties was dissolved by decree on September 17, 1979. The decree awarded $350 per month in alimony to the respondent for a period of 121 months and ordered sale of the parties' home with mortgage payments to be made by the petitioner until the house was sold. The court found the parties' net worth to be approximately $162,000 and awarded the respondent property worth approximately $40,000.

When the parties were married in 1972, petitioner was forty-one and the respondent was thirty-four. Petitioner, a practicing dentist who obtained further specialized professional education during the marriage, had a 1978 net income of $52,498. The respondent had been employed as a dental assistant/receptionist throughout the marriage and had a net income of $8266 in 1978. Although each of the parties had children from former marriages, no children were born to the parties during their marriage.

II.

In determining the amount of property available for distribution to the parties, the trial court calculated net assets at $190,000 and deducted $28,000 for assets brought to the marriage by the petitioner, thus leaving $162,000 as the basis for a property division. The petitioner contends that the trial court overvalued certain of the parties' assets, notably his professional corporation (his dental practice), his office building, and his dental equipment, and that the trial court included in net assets a larger percentage of accounts receivable than was warranted. He also contends that the trial court should not have included as net assets $90,000 representing improvements to his business property. We affirm the trial court's calculation of the parties' net assets.

The trial court valued stock in petitioner's professional corporation at $25,234;

petitioner now contends, based on his perception of the liquidating value of the corporation, that the proper value of the stock is between $10,000 and $20,000. However, $25,234 was the value ascribed to the stock by the petitioner himself on the balance sheet of his corporate financial statement. Moreover, petitioner's calculation that the stock is worth only $10,000 to $20,000 appears to have been based on the cash basis of accounting, which, according to two certified public accountants who testified at trial, does not reflect accounts receivable. For these reasons, we affirm the trial court's use of the $25,234 figure as the value of stock in petitioner's professional corporation.

We reach a similar conclusion with respect to the trial court's valuation of petitioner's office building and dental equipment. The trial court valued the building at $300,000; petitioner maintains that $275,000 is the correct figure. However, the parties stipulated that the value of the building was between $250,000 and $300,000 and petitioner listed its value as $300,000 on a personal financial statement he prepared in December of 1978. We therefore conclude that use of the $300,000 figure was warranted. Petitioner's one-year-old dental equipment was valued by the trial court at $38,000, but the petitioner maintains it is only worth about $20,000 due to depreciation. We find the $38,000 figure more reasonable. Petitioner also alleges that only 60% of accounts receivable should have been included in net assets, whereas the trial court included 90% of accounts receivable, or $19,301. The trial court's method of determining the value of accounts receivable was appropriate; according to the testimony of one of the accountants, such value is normally calculated by discounting 10% for noncollectibility.

In conclusion, we affirm the trial court's valuation of the parties' assets. We note that the trier of fact is free to accept or reject any or all opinion evidence as to the value of property. Schantz v. Schantz, 163 N.W.2d 398, 404 (Iowa 1968) (modified to exclude fault, In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972)). It is important to note here that most of the opinion evidence concerning the value of these assets came from the petitioner himself, whose interests would clearly be served by ascribing a lower value to the assets. Moreover, we are mindful of the trial court's finding that the petitioner incurred $128,000 in business debt after he realized that his marriage was in trouble and of the petitioner's contention that the assets attributable to that debt are to be valued at only $20,000. In light of all the relevant considerations,

the trial court's conclusions as to the value of the parties' assets are fair and reasonable.

Furthermore, we find that under the Schantz criteria an award of alimony to the respondent was justified. Petitioner's earning capacity is significantly greater than that of the respondent as is illustrated by the fact that his 1978 net income was 535% greater than hers. Additionally, respondent has aided the petitioner not only in his dental practice but in various ways that helped to promote his career. See Schantz, 163 N.W.2d at 405. Moreover, we think that the amount of alimony is reasonable, since the alimony award, when added to respondent's property settlement, enables the respondent to receive approximately one-half of the total amount of the parties' assets. We therefore affirm the award.

III.

The petitioner further contends that he should receive a credit for payments he has made to maintain the parties' home prior to its sale as provided by the decree. He maintains that the trial court contemplated that the home would be sold shortly after entry of the decree, but that in fact the house had not been sold at the time he brought his appeal. There is nothing in the record to support petitioner's contention that the trial court believed the house would sell quickly. The decree merely provides that if the house is not sold within two months by the parties themselves, it should be listed with a mutually agreeable realtor. We therefore reject the petitioner's claim to a credit and we affirm the economic provisions of the decree.

IV.

Finally, the respondent has requested attorney fees incurred in this appeal. In evaluating such a request, we consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. In re Marriage of Erickson, 228 N.W.2d 57, 59 (Iowa 1975); In re Marriage of Stom, 226 N.W.2d 797, 800 (Iowa 1975). We do not find that the circumstances justify an award of appellate attorney fees to the respondent.

AFFIRMED.