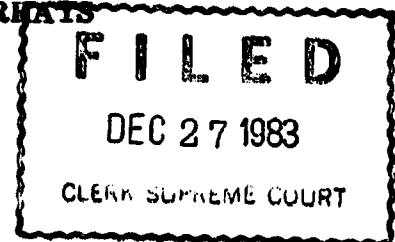


IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF THOMAS D. SUMMERHAYS
AND KATHLEEN F. SUMMERHAYS

Upon the Petition of)
THOMAS D. SUMMERHAYS,)
 Petitioner-Appellee,)
 And Concerning)
KATHLEEN F. SUMMERHAYS,)
 Respondent-Appellant.)

3-390
83-359

Appeal from Black Hawk District Court - Forest E. Eastman, Judge.

Respondent appeals from the decree in dissolution proceedings dividing the marital assets. **AFFIRMED.**

James H. Yagla and George Lindeman, Lindeman & Yagla, Waterloo, Iowa,
for petitioner-appellee.

Jane Spande, Cedar Rapids, Iowa, for respondent-appellant.

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

SACKETT, J.

Respondent wife appeals from the decree in dissolution proceedings asserting that the property division was inequitable and based on an erroneous valuation of the husband's half-interest in a closely held family corporation and that her post-trial motion to reopen evidence should have been sustained for the purpose of allowing the presentation of additional evidence relating to the husband's alleged failure to disclose assets. Petitioner husband asserts, inter alia, that the post-trial motion to reopen evidence was not authorized by the rules of civil procedure. We affirm.

The parties' 1981 dissolution decree reserved for later determination matters relating to alimony, property division, and payments of attorney fees and court costs. At the time of trial relating to those issues the wife, 55, was unemployed after working as a housewife and mother since the parties' marriage in 1949. The husband, 56, was half-owner of a closely held family corporation which manufactured industrial patterns. His gross salary of eight hundred dollars per week had been reduced to six hundred dollars per week due to business reverses resulting from the loss of the corporation's primary customer.

Various financial statements filed by the husband between October, 1981 and November 1, 1982, stated that the market value of his half-interest in the corporation had dropped from \$240,422 to \$50,254. At trial his expert testified that the latter value was correct. The wife's expert testified that he was unable to place a present market value on the corporation but that it was somewhere between \$175,000, the liquidation value of the company, and \$300,000, the value placed upon the stock in a buy-sell agreement between the husband and his brother, the other stockholder.

For purposes of property division the trial court placed a value of \$75,000 on the husband's company stock, which was awarded in its entirety to him. The

parties were awarded assets of approximately equal value using the valuations found by the trial court. The wife was awarded alimony of \$200 per week. Following entry of judgment she filed both an application for enlarged and amended findings and conclusions and a motion to reopen evidence, asserting that the husband had failed to disclose the true extent of his assets. The latter motion was overruled. This appeal followed.

I. Motion to reopen

Kathleen contends that the trial court improperly overruled her motion to reopen evidence. We disagree.

Kathleen moved that the trial court reopen the evidence in the case on the following grounds:

1. The court's decree has not become a final judgment because of pending post-trial motions which the court has yet to rule on.
2. The petitioner failed to disclose the extent of his assets in his statements to the court of his financial worth.
3. Respondent became aware of such specific failures after the close of evidence in this case.
4. In fairness and equity to this respondent she should be allowed to place such evidence before the court before the court's ruling becomes a final judgment herein.

The court found that Kathleen had "full and ample opportunity" to present all relevant evidence at trial and overruled the motion.

Kathleen, in sole support of her argument, has referred us to the case of Rider v. Rider, 251 Iowa 1388, 105 N.W. 2d 508 (1960). The court in Rider noted:

"To enable the court to make an equitable distribution of the property of the parties, both parties must fully disclose their conditions as to property."
[citation omitted]

In the consummation of division of property the parties are required to exercise utmost good faith and to make full disclosure of all material facts, including their circumstances and any other facts which might affect division. [citations omitted]

Id. at 1393, 105 N.W. 2d at 511. While the Rider case enunciates the well-recognized proposition that both parties to a dissolution action must fully disclose

their financial situation, it provides no support for Kathleen's argument regarding her motion to reopen evidence. Furthermore, Kathleen offers no additional authority in support of her argument. As an appellate court, "we are under no compulsion to review any assignment of error when the complaining party cites no authority in support of his argument." Arthur Elevator Co. v. Grove, 236 N.W. 2d 383, 393 (Iowa 1975). "[I]n the absence of relevant supportive authority an argument by a complaining party may be deemed waived." Miller v. International Harvester Co., 246 N.W. 2d 298, 304 (Iowa 1976). In any event we note that Kathleen, in her motion to reopen evidence, failed to refer to any specific evidence not introduced at trial. Likewise, we find no evidence that the petitioner failed to disclose any relevant information. We find no error on the part of the trial court in refusing to reopen the evidence.

II. Property Division

Kathleen next argues that the trial court made an inequitable property division and failed to take into consideration the value of the parties' interest in Mid-West Pattern Company. Kathleen challenges the value placed on the stock of Mid-West for purposes of property division. In addition, Kathleen contends that the trial court should have used the value of the stock on the date of the dissolution decree, December 30, 1981, rather than the date of the hearing on the division of property, November 18, 1982. We will address these issues separately.

The record reveals that between December 30, 1981 (date of dissolution decree) and November 18, 1982 (date of hearing on property division), the value of the petitioner's Mid-West holdings decreased from \$240,422 to \$50,254. For purposes of the property division the trial court placed a value of \$75,000 on the stock.

If the value placed on the stock by the trial court was well within the permissible range of the evidence, we will not disturb it on appeal. In re Marriage of Bare, 203 N.W. 2d 551, 554 (Iowa 1973). Furthermore, the trial court is free to

accept or reject opinion evidence regarding valuation. Schantz v. Schantz, 163 N.W. 2d 398, 404 (Iowa 1968). We give weight to the findings of the trial court, and the ultimate question is whether the distribution of property was equitable. In re Marriage of Lattig, 318 N.W. 2d 811, 814 (Iowa Ct. App. 1982). In reviewing an individual economic provision of a dissolution decree, we consider all the provisions together as an integrated whole. Id. at 815.

A. Valuation date

In In re Marriage of Hitchcock, 308 N.W. 2d 432 (Iowa 1981), the supreme court was faced with determining the appropriate valuation date of certain property. The court in Hitchcock found it inappropriate to develop a general rule concerning valuation dates in disjointed dissolution proceedings, when property settlements are within its equitable jurisdiction. Id. at 434. In that case the court was faced with valuing property which had appreciated significantly during the three years between the entry of the dissolution decree and the resolution of the property settlement issue. The court in Hitchcock determined that, in that case, equity and logic dictated that they approve the trial court's decision to value the assets as of the date of the resolution of the property settlement issue. Id. at 435. The court noted that:

In this case there was no "first trial" concerning the marital assets in the sense that a court received and weighed evidence of the value of the marital assets, made findings of fact, and formed conclusions of law.

* * *

We observed the "the decree in this case is not the result of a trial on the merits or an independent decision of the court." . . . Consequently, the remand proceeding was the first judicial determination of the marital assets subject to distribution and their value.

Id. at 434-35.

The same logic controls here. The court, in its order of December 30, 1981, merely dissolved the marriage. The issue of property division was specifically

reserved until a future date for judgment on the matter of marital assets. The court's decision in this case to determine the value as of the date of the hearing on property division was equitable.

B. Value of Stock

We must next determine whether the value placed on the stock by the trial court was equitable, and whether the trial court's alimony award was sufficient.

The record is replete with testimony regarding the valuation of the Mid-West stock. The trial court found, with respect to the Mid-West holdings:

Mid-West Pattern Company is a closely held family corporation. Given the structure of the company, the type of business it engages in, its reliance on one large customer for 80 to 90 percent of its business, and the present economic conditions, there is no meaningful way to arrive at a reliable evaluation of the company. The company's earnings have fluctuated drastically in recent years and are not a reliable indication at this time of the value of the company. The business is not for sale and no comparable business had been sold in the community in recent years. The book values bear no relationship to the earnings and are influenced by accelerated depreciation of the assets. The liquidation value of the assets depends upon the state of the economy and the availability of a buyer or buyers for the assets.

Our review of the record indicates that the trial court fairly and succinctly summarized the available valuation testimony. The trial court then concluded, based upon its findings:

The Petitioner's 30 shares of Mid-West Pattern Company are evaluated at \$75,000. The evaluation is based upon a \$170,000 liquidation evaluation, divided by one-half, to arrive at the Petitioner's share, and subtracting \$10,000 owed on the stock purchase from the previous owner.

The court, after arriving at the \$75,000 valuation figure, proceeded to divide the assets of the parties as equally as possible.

As we stated above, if the value placed on the stock by the trial court was within the permissible range of the evidence, we will not disturb it on appeal. In re Marriage of Bare, 203 N.W. 2d 551, 554 (Iowa 1973). In reviewing the valuation of the Mid-West stock, we consider all the economic provisions of the dissolution

decree as an integrated whole. See In re Marriage of Lattig, 318 N.W. 2d 811, 815 (Iowa Ct. App. 1982).

The record reveals that Mid-West Pattern Company makes patterns for various companies, including John Deere. The John Deere account alone amounted to approximately 80 percent of Mid-West's business in the five-year-period prior to trial. Mr. Richard Frances Firgard, Foundry Pattern Development Supervisor at John Deere, testified that the week before trial John Deere pulled all pattern-making work in progress, including that being done by Mid-West, back into the Deere plant. Firgard estimated that Deere would not be in a position to purchase any patterns from Mid-West through 1983 and most of 1984. Stanley A. Hansen, a certified public accountant, testified regarding the valuation of Mid-West on behalf of the respondent, Thomas Summerhays. Hansen testified that he had valued the corporation by looking at the last five years' earnings of the corporation, taking the weighted average of such earnings. Hansen then multiplied that figure by a price-earnings ratio of 3.5. Hansen arrived at a weighted earning figure of \$52,000 per year. This figure, multiplied by a 3.5 price-earnings ratio, resulted in a fair market value of \$182,742. Hansen then adjusted the figure, applying a discount factor of 45 percent, and arrived at an adjusted fair market value of \$100,508 for the corporation. Hansen concluded that respondent's one-half interest in the corporation should be valued at approximately \$50,000.

Kathleen called Mr. James I. Barron, a certified public accountant, to testify regarding the valuation of the Mid-West stock. Plaintiff's counsel asked Mr. Barron "whether anyone can determine, with a degree of accuracy, the present value of this company at this time." Barron responded, "I don't think there is an answer. I don't think it could be done." Mr. Barron stated:

I guess the big thing is that the economy right now is such a question mark, and that had such a tremendous bearing significance as far as the future of this company,

that without a crystal ball, I would never want to give an opinion as to what I think it's going to be worth today with the unknowns of the future.

Mr. Barron, however, concluded that the present value of Mid-West was somewhere between \$175,000 and \$300,000, adding that he thought "that number is very much in limbo."

Notwithstanding Mr. Barron's position on the issue of valuation, the trial court and this court are faced with the task of valuing Thomas' interest in Mid-West. The record clearly indicates that, while the company enjoyed substantial earnings in the past, it now faces substantially decreased earnings. The company's income is tied to the John Deere account, which, as of the time of trial, was non-existent. It does not appear that Mid-West will receive any business from John Deere for at least the next two years.

We find that the value placed on the stock by the trial court was clearly within the permissible range of the evidence. We will not disturb it on appeal.

C. Alimony.

Kathleen finally challenges the adequacy of the alimony awarded her by the trial court. She was to receive \$200 per week until death or remarriage. The trial court, in addition, required the petitioner to supply Kathleen with profit and loss statements from Mid-West and accorded Kathleen the right to seek a modification should those statements reflect an increase in petitioner's earnings.

The parties were married in 1949. Both were high school graduates, and neither brought any substantial assets to the marriage. Petitioner has been employed by Mid-West throughout the marriage. He had been drawing a salary of \$800 per week until recently, when his salary was cut to \$600 per week due to lack of business. Respondent has not worked outside the home during the marriage, but worked full-time as a housewife, raising the parties' six children. The youngest child was 20 years old at the time of trial.

In reviewing the trial court's award of alimony, we consider all of the economic provisions of the dissolution decree as an integrated whole. In re

Marriage of Lattig, 318 N.W. 2d 811, 815 (Iowa Ct. App. 1982). We find that, under the criteria of Iowa Code section 598.21, the property division and support provisions, considered together as a whole, are equitable. We therefore affirm the economic provisions of the dissolution decree.

AFFIRMED.