FILED
JAN 29 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF LORETTA S. P. STAMMER AND MILO C. STAMMER

276

Upon the Petition of	)	
LORETTA S. P. STAMMER,	)	Filed January 29, 1986
Petitioner-Appellee,	)	
And Concerning	)	
MILO C. STAMMER,	)	5-555 85-435
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Carroll County - R. K. Richardson, Judge.

Respondent appeals the provisions of the trial court's dissolution decree. **AFFIRMED.**

Thomas E. Gustafson, Denison, Iowa, for respondent-appellant.

David E. Green of Green & Siemann, Carroll, Iowa, for petitioner-appellee.

Considered by Donielson, P.J., Schlegel, and Sackett, JJ.

Respondent Milo Stammer appeals the provisions of the trial court's dissolution decree. We affirm.

Respondent Milo Stammer, age 67, and petitioner Loretta Stammer, age 62, were married for 10 and one-half years. Milo was a farmer when they married and is now retired. Loretta was employed as a nurse's aide when she married respondent but subsequently quit her job at respondent's request. During their marriage petitioner helped with the farm chores when the need arose, helped to paint buildings and fences on the farm, and did all of the household chores and cooking. Her working hours were as long as respondent's, rising at 6:00 a.m. and working until 6:00 or 7:00 p.m. doing both farm-related labor and household work.

In its decree, the trial court ordered respondent to pay a lump sum of $28,265 to petitioner as part of the property distribution. The trial court also awarded petitioner $500 per month for a period of five years in order to give petitioner an opportunity to rehabilitate herself and also to obtain employment in order to support herself. Finally, respondent was ordered to pay petitioner's current medical bill amounting to $375 and to pay her $900 in attorney fees.

In return the trial court awarded respondent the remaining interest in the contract of sale of 20 acres of farm property valued at $53,800, along with the remaining interest in 150 acres of farmland valued at $150,000. Respondent also retained ownership of the parties' homestead worth $35,000, and a cabin located at Black Hawk Lake purchased in 1983, for $12,000. Finally, the trial court awarded respondent furniture, a 1979 Ford pickup truck valued at $4,000, a life insurance policy worth $3,000, and cash assets totaling $78,501.50.

On appeal, respondent alleges the trial court erred in determining the lump sum award to petitioner, awarding $500 per month alimony to petitioner, and ordering respondent to pay petitioner's medical bill and attorney's fees.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. Our responsibility is to review the facts as well as the law and to determine rights anew from the credible evidence on properly presented and preserved issues. In re Marriage of Castle, 312 N.W.2d 147, 148 (Iowa App. 1981).

I. Lump Sum Award. Respondent's main contention on this issue is that the trial court erred in its method of dividing assets and the factors, if any, it considered in making that distribution.

The record shows that respondent brought to the marriage cash and other assets totaling $107,238. Petitioner brought into the marriage a kitchen set and approximately two hundred dollars. The trial court found the total of all the marital assets at the time of dissolution to be $174,765. Subtracting the lower figure from the higher, the trial court determined what it called "assets accumulated" to be worth $67,520. It then divided the "assets accumulated" in half and arrived at $33,763.50. From this figure, it deducted $5,500 which represented present assets, such as insurance, one-half of the furniture and fixtures, and a $2,000 checking account held by petitioner. The $5,500 deduction brought the figure down to $28,263.50 which the trial court assigned as being that share of the bank savings and loan accounts attributable to petitioner.

Respondent alleges that the division of "accumulated assets" in half means that the trial court erroneously assumed that the net increase in these accounts was a result of equal contribution by both parties. He argues that the accumulation of assets was not a result of joint effort by both parties and therefore a division of the accumulated property need not occur. See In re Marriage of Lattig, 318 N.W.2d 811 (Iowa App. 1982).

We cannot agree with respondent that petitioner's compensation for her contribution to this marriage was excessive. The distribution of assets of the parties' marriage must follow the guidelines set out in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), as modified by In re Marriage of Williams, 199 N.W.2d 339, 344-46 (Iowa 1972). We are also required by Iowa Code section 598.21(1)(c) to consider "the contribution of each party of the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services." "Our law does not contemplate a division of property based upon a price-per-hour basis, as though marriage is a business venture. Husband and wife need not, during happy days, keep a ledger to prove his or her economic value should the marriage later flounder." In re Marriage of Byall, 353 N.W.2d 103, 106 (Iowa App. 1984).

> Contribution of each party to net worth by labor or otherwise is only one of many factors contained in the Schantz criteria. Standard of living, present income, ability to pay, needs of the parties, the ages of the parties and of the children, and the duration of the marriage are other factors that should be considered.

In re Marriage of Steenhoek, 305 N.W.2d 448, 453-54 (Iowa 1981). The authority cited above renders respondent's argument meritless. The parties were married for ten and one-half years and the trial court obviously took into consideration petitioner's efforts in making respondent's home and farm a comfortable, profitable and pleasant place to live. Moreover, petitioner is presently living in subsidized housing and receives only $255 per month from social security. Respondent, on the other hand, receives well over $2,000 per month from his property and other sources of income. We hold therefore that the trial court did not err in awarding petitioner a lump sum of $28,265.

II. **Alimony.** Respondent argues, on appeal, that the trial court awarded an excessive amount of alimony to petitioner. He disagrees with the trial court

that the real reason petitioner needs the amount awarded is for "the opportunity to rehabilitate herself and to obtain employment in order to support herself." He states that petitioner has not sought any employment and that there are no medical reasons why she cannot seek employment. He maintains rather, that the real reason for her need for $500 per month is because she has become accustomed "to spending a fair amount of money without having to be employed and this was much different than what her situation was prior to the marriage."

Respondent's reliance on the standard of living by a spouse before the marriage is erroneous. The criteria used by the courts in setting the amount of alimony is not what the parties are used to before the marriage, but rather during the marriage.

> The equitable principles that we have recognized and enforced in the past require, in dissolution cases, that the spouse with the lesser earning capacity is entitled to be supported, for a reasonable time, in a manner as closely resembling the standards existing during the marriage as possible without destroying the right of the party providing the income to enjoy at least a comparable standard of living as well.

In re Marriage of Hayne, 334 N.W.2d 347, 351 (Iowa App. 1983).

We agree with respondent that petitioner very likely did become accustomed to a higher standard of living than what she experienced before the marriage. It is this standard, therefore, that is used to set the amount of alimony. We also note, however, that petitioner is 62 years old, with an eighth grade education, and last employed almost eleven years ago as a nurse's aide. In today's economy, she will have considerable trouble finding employment to support herself. Therefore, we affirm the trial court's award of $500 alimony per month for a period of five years.

III. Attorney's Fees and Medical Bill. Respondent argues that the trial court erred in awarding respondent $900 in attorney fees and $375 for medical

bills. Such an award may be granted depending upon the parties' respective abilities to pay. In re Marriage of Giles, 338 N.W.2d 544, 546 (Iowa App. 1983). Petitioner's attorney submitted a statement in the amount of $1,192.50 for attorney's fees. The trial court ordered respondent to pay $900 of this amount. We affirm the trial court's award of not only the attorney fees but also the amount of the medical bill.

Petitioner has also requested that she be awarded attorney fees for this appeal. We award petitioner $250 in attorney fees associated with this appeal.

Because we find the trial court did not err in any of the issues raised on appeal, we affirm the decree.

AFFIRMED.