FILED
AUG 29 1985
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF CAROL ANN OLSON AND ROBERT DEAN OLSON

291

Upon the Petition of)

CAROL ANN OLSON,) Filed August 29, 1985

Petitioner-Appellant,)

And Concerning)

ROBERT DEAN OLSON,) 5-270
84-873

Respondent-Appellee.)

Appeal from the Iowa District Court for Webster County - James C. Smith, Judge.

Petitioner wife appeals from the property, alimony, and attorney fee provisions of the decree dissolving the parties' marriage. Petitioner wife also requests attorney fees on appeal. **AFFIRMED.**

Dan T. McGrevey, Fort Dodge, for petitioner-appellant.

Fredrick E. Breen of Price, Goode, Breen & Breen, Fort Dodge, for respondent-appellee.

Considered by Oxberger, C.J., Snell and Hayden, JJ.

HAYDEN, J.

The parties were married in 1958. They have four children, all of whom are now adults. Both parties are in good health.

At the time of trial, Carol was 44 years old and Robert was 45. Robert is employed as a salesman for an office equipment company; he earned almost $22,000 in the year prior to trial. Carol is managing the family bridal floral business without a salary.

The floral business caused much of the financial and marital strain that the parties underwent in recent years. The parties' cash investment in the business was Robert, $20,500, and Carol, $5,000. The business had not been successful from its inception in 1979. The business was valued at $18,000, but is subject to a debt of $10,000. The trial court directed the parties to sell the business and divide the proceeds one-fourth to Carol and three-fourths to Robert.

The parties' house was valued at $42,000, but is subject to a debt of $5,576. The trial court awarded Carol the right to occupy the house for five years; the house was then to be sold and the proceeds divided three-fourths to Carol and one-fourth to Robert.

The court also directed that Robert pay Carol a $7,500 property settlement and $600 toward her attorney fees.

The trial court awarded Robert the parties' van, his IRA account of $1,800, his checking and savings accounts of $1,200, a trust account for the children's education valued at $11,000, and a profit sharing account valued at $42,000, less $5,000 incurred for income tax liability.

The trial court directed Robert to pay Carol alimony of $350 a month for one year, then $200 a month for three years, then $125 a month for three years, whether or not Carol remarried. Robert also will pay Carol $400 a month

for their youngest child's support for eight months in 1984, and thereafter contribute to Curtis' vocational or college education.

Carol has appealed from the dissolution decree. She challenges the property division, the alimony award, and the provision for attorney fees. Carol also requests attorney fees on appeal.

Our review is de novo. In re Marriage of Deck, 342 N.W.2d 892, 894 (Iowa Ct. App. 1983). We give weight to the fact findings of the trial court, but are not bound by them. Iowa R. App. P. 14(f)(7).

I. Property Division. The guidelines for the disposition of property are set forth in Iowa Code section 598.21. The crucial issue in reviewing property division in a dissolution decree is whether the distribution under the particular circumstances was equitable. In re Marriage of Wallace, 315 N.W.2d 827, 830 (Iowa Ct. App. 1980). We reject any rule based on a percentage division of the assets. In re Marriage of Lattig, 318 N.W.2d 811, 814 (Iowa Ct. App. 1982). In light of each party's contribution to the marriage in terms of homemaking, child rearing, and monetary support, we conclude that the property division is equitable.

II. Alimony. 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. In re Marriage of Hayne, 334 N.W.2d 347, 351 (Iowa Ct. App. 1983). However, once the dependent spouse's standard of living is assured, there is no reason, in equity, for the supporting spouse to provide still more. Id.

After carefully reviewing the record, we conclude that the alimony provision of the divorce decree should not be disturbed. Because Carol has worked throughout the marriage and has acquired various job skills, it is reasonable to anticipate that she will find appropriate employment within seven years. We therefore affirm the alimony award set forth in the decree.

III. Attorney Fees. The trial court is vested with considerable discretion in allowing attorney fees to be awarded in dissolution cases. In re Marriage of Giles, 338 N.W.2d 544, 546 (Iowa 1983). The allowance here appears fair and reasonable and should not be disturbed.

In evaluating Carol's request for attorney fees on appeal, we consider the needs of the party making the request and the ability of the other party to pay. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa Ct. App. 1981). In doing so, we conclude that an award of attorney fees would be inappropriate.

AFFIRMED.

Oxberger, C.J., concurs; Snell, J., dissents.

SNELL, J. (dissenting)

I respectfully dissent. In light of each party's contribution to the marriage in terms of homemaking, child rearing, and monetary support, I find that this situation calls for a more nearly equal division of marital assets, taking into account alimony awarded. The most equitable distribution is to award Carol a $15,000 property settlement, rather than the $7,500 awarded by the trial court. I would affirm the remainder of the trial court's property division.

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. In re Marriage of Hayne, 334 N.W.2d 347, 351 (Iowa Ct. App. 1983). However, once the dependent spouse's standard of living is assured, there is no reason, in equity, for the supporting spouse to provide still more. Id.

Because Carol has worked throughout the marriage and has various job skills already, I find that it is reasonable to anticipate that she will find appropriate employment within four years. Therefore, I conclude that Carol is entitled only to alimony of $350 a month for a one year, then $200 a month for three years. Such alimony award shall cease upon Carol's death or remarriage, or in the event of Robert's death.