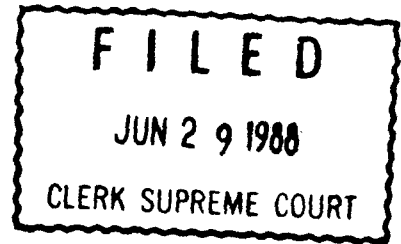


IN THE COURT OF APPEALS OF IOWA  
IN RE MARRIAGE OF ELEANOR M. YOUNG  
AND LARRY L. YOUNG



|                          |   |                         |
|--------------------------|---|-------------------------|
| Upon the Petition of     | ) | 319                     |
| <b>ELEANOR M. YOUNG,</b> | ) | Filed June 29, 1988     |
| Petitioner-Appellee,     | ) |                         |
| And Concerning           | ) | $\frac{8-164}{87-1185}$ |
| <b>LARRY L. YOUNG,</b>   | ) |                         |
| Respondent-Appellant.    | ) |                         |

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Appeal from the Iowa District Court for Bremer County (No. CD 86045),  
J. W. Frye, Judge.

Respondent husband appeals from the decree dissolving the parties' marriage. **AFFIRMED.**

Don L. Hagemann of Hagemann, Goeke & Egli, Waverly, for appellant.

Gary J. Boveia of Waverly for appellee.

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

**PER CURIAM**

Larry Young appeals the decree dissolving the parties' marriage. He asserts that the trial court's property division and alimony award were inequitable. He requests the court to either eliminate the alimony award or modify it by providing rehabilitative alimony of \$300 per month for two years from the date of decree. Eleanor Young requests the court affirm the district court's decision and award her appellate attorney fees. We affirm.

We review de novo. I. R. App. P. 4. We give weight to the fact findings of the trial court, especially where the credibility of the witnesses is concerned, but we are not bound by them. I. R. App P. 14(f)(7).

The parties were married for twenty-nine years and have three adult children. During the marriage, Larry worked as a salesman for a publishing company, while Eleanor took care of the children. In 1969 and 1970, Eleanor attended Hawkeye Tech for further study in interior design. She worked in furniture sales until 1982. At that time she began selling vending machine prepared food. She terminated her employment with this company in 1985 because of emotional problems. Eleanor is forty-eight years old and Larry is forty-seven.

Larry argues he does not have the financial ability to pay the alimony award as set up by the trial court. Upon our de novo review, we conclude that Larry has the ability to pay Eleanor the alimony award. The trial court ordered Larry to pay Eleanor \$2,500 in lump sum on the first business day of August, 1987, to be paid from the 1986 income tax refund due and owing both parties, to further pay Eleanor \$750 per month as periodic alimony for a period of twelve months, and thereafter to pay a reduced monthly alimony award of \$400 commencing August of 1988 until Eleanor remarries, cohabitates with another person of the opposite sex, or dies.

Larry argues that because the court awarded him all rights and interests to seven parcels of income property, which are partially inhabited and include the family home and the responsibility to pay all existing debts of both parties, he cannot afford to pay alimony as the court has ordered. As a salesman, Larry makes approximately \$40,000 to \$50,000 a year. Eleanor is presently unemployed due to depression and anxiety for which she is being treated. Larry's financial statement reveals that the parties have a total negative net worth of \$70,000, which reflects the unoccupied rental properties and personal debts incurred by the parties during their marriage. Eleanor's financial statement reveals the parties' net worth to be negative \$1,410. The testimony revealed that Eleanor's financial statement was more accurate than Larry's due to the date of compilation and inclusion of other assets. The disparity found in the parties' assets arise from differing appraisals of the income properties. Larry argues the court adopted Eleanor's appraisals and was incorrect in doing so. The court's values reflecting that the family home and income property are within the range of values given at trial and we will not disturb it. See In re Marriage of Weidemann, 402 N.W.2d 744, 748 (Iowa 1987).

An award of alimony is based upon those factors as set out by Iowa Code § 598.21(3). The parties were married for twenty-nine years. Both are in their late forties. Larry is in good health, whereas Eleanor has had to quit working and seek another line of work due to emotional problems. The trial court awarded Larry (1) the seven parcels of income real estate including the family home and severed Eleanor's rights to them, (2) the 1985 Izuzu automobile, (3) his life insurance policy, (4) his profit-sharing plan, (5) his IRA, (6) all existing indebtedness, (7) personal property as jointly agreed by both parties, and (8) his bank accounts. Eleanor was given (1) personal property as agreed to by the parties, (2) a 1976 Toyota automobile, (3) her bank accounts, which are nominal. Both

parties are high school graduates. Eleanor has two years' technical experience in interior design but has had to leave the field due to emotional problems and is currently unemployed. Larry is the top salesman in his company. Eleanor will not be able to become self-supporting at a standard of living comparable to that enjoyed during the marriage for some time, if at all, due to her mental difficulties and her age at reentry into the work force. Larry has been able to steadily progress in his career throughout their married life. Larry will have all tax deductions and liabilities due to the court's award of all jointly-held properties.

Eleanor's employment opportunities at this time are questionable at best. She needs alimony in order to survive. She has no retirement or pension plan to ease her retirement years. We therefore hold the trial court's award of alimony of \$2,500 lump sum to be paid from the 1986 joint tax returns, \$750 monthly periodic alimony to be paid for a period of twelve months ending in July of 1987 and thereafter reduced to \$400 per month to be fair and equitable.

Eleanor requests attorney fees for this appeal. Attorney fees on appeal are not a matter of right, but rest within the court's discretion and the parties' financial positions. In re Marriage of Kern, 408 N.W.2d 387, 390 (Iowa App. 1987). We determine Larry has the ability and should contribute to Eleanor's fees. We therefore order him to pay \$1,000 of Eleanor's appellate attorney fees. Costs are taxed to Larry.

**AFFIRMED.**