JAN 25 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF MARYELLEN JAGERSON & CLYDE L. JAGERSON

Upon the Petition of)
MARYELLEN JAGERSON,) FILED JANUARY 25, 1979
Appellee,)
vs.) 713
CLYDE L. JAGERSON,) 2-60911
Appellant.)

Appeal from Polk District Court - Harry Perkins, Judge.

Husband and wife both appeal economic provisions of divorce decree.

Affirmed as modified.

Marc S. Harding, Des Moines, for Appellant.

George E. Flagg, Des Moines, for Appellee.

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

PER CURIAM

Respondent Clyde Jagerson appeals provision of divorce decree awarding $125,000 payable in five annual installments to petitioner Maryellen Jagerson. Maryellen cross-appeals from the denial of alimony.

At time of trial, Maryellen and Clyde were aged 54 and 60 respectively and had been married for 28 years. Clyde has been continuously employed in a family farming partnership with his four brothers. For the first twelve years of the marriage, Maryellen worked outside of the home as a cashier and bookkeeper. Trial court found, and we agree, that the considerable amount of property acquired by the parties was the result of their joint efforts. It was further found that their interest in the partnership amounted to $300,000. Maryellen was awarded a lump sum property settlement of $125,000 payable in five years at $25,000 per year. Clyde contends that this pay schedule is unjustly burdensome and that it should be extended over a longer period of time.

Our review of the instant case is de novo, and we apply the general formula outlined in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), exclusive of the fault concept. In re Marriage of Fisher, 237 N.W.2d 452, 453 (Iowa 1976). The record reflects that Clyde has enjoyed a steadily increasing income from his farming operation and that he earned over $22,000 in 1976. It is true that he may have withdrawn more than his proportionate share from the partnership account over the years but there is no evidence that he is indebted to his brothers for the amount he claims to have overdrawn. We find Maryellen is entitled to the $125,000 awarded to her but that payments shall be structured by the trial court to be within a 10 years plus one month period as permitted by section 71C of the Internal Revenue Code.

Maryellen has cross-appealed claiming an entitlement to alimony in addition to the property settlement. Upon application of the Schantz criteria, we find Maryellen should receive alimony payments of $300 per month to continue for 10 years, until the death of either party or Maryellen's remarriage. See Fisher, supra at 454. Said alimony payments shall be retroactive to date of decree. Costs of this appeal shall be divided equally between the parties.

Affirmed as modified.