

IN THE COURT OF APPEALS OF IOWA

FILED

MAY 28 1985

CLERK SUPREME COURT

**IN RE THE MARRIAGE OF LA VERN V. WROBLEWSKI
AND ELEANOR E. WROBLEWSKI**

Upon the Petition of)

LA VERN V. WROBLEWSKI,)

Petitioner-Appellant,)

Filed May 28, 1985

And Concerning)

ELEANOR E. WROBLEWSKI,)

5-142
84-860

Respondent-Appellee.)

Appeal from the Iowa District Court for Linn County - William R. Eads,
Judge.

Petitioner husband appeals from economic provisions of decree dissolving
the parties' marriage. **AFFIRMED.**

Peter C. Riley of Tom Riley Law Firm, Cedar Rapids, and Mary K. Hoefer,
Iowa City, for petitioner-appellant.

Deborah L. Leonard, Cedar Rapids, for respondent-appellee.

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

DONIELSON, J.

Petitioner husband appeals from the economic provisions of the decree dissolving the parties' marriage. He asserts that the trial court erred in awarding alimony to the respondent and that the division of property was erroneous. We affirm.

LaVern and Eleanor Wroblewski were married for thirty-four years. At the time of the dissolution, LaVern was 56 years old and self-employed. He had run his own farm machinery parts business since 1964. In 1980 and 1981, his income was approximately \$40,000.00 and \$33,000.00, respectively. After the parties' separation, LaVern moved the business to Florida and hoped to gain employment as a consultant in the field of computers.

Eleanor was 49 years old and working part-time as a sales clerk at Younkers. She had worked as a clerk off and on during the marriage. She had a ninth grade education.

The trial court awarded the parties' home to Eleanor. The house was valued at \$67,309.00. The parties' equity in the house was \$50,159.00. Eleanor also received a piece of property located in Anamosa, Iowa, valued at \$4,500.00. LaVern was awarded the business, originally valued at \$54,035.31.

Eleanor was awarded alimony. However, LaVern was given credit for \$500.00 per month for the first 55 months of alimony, obligating him to pay \$250.00 per month for the first 12 months. This credit arose from LaVern's share in the business' warehouse which Eleanor sold for \$20,000.00, less than one-third of its market value. Both parties were held liable for their attorney fees and costs.

LaVern subsequently filed a timely rule 179(b) motion, requesting, among other things, that the court modify the property division. The trial court revalued the business at \$84,035.31, but refused to modify the distribution of property within the decree. LaVern has appealed.

LaVern first argues that the alimony award was excessive. In considering the fairness of the alimony provision, we look to the factors set forth in Iowa Code section 598.21(3). In doing so, we conclude that the amount of alimony awarded should not be disturbed. It is apparent from the record that the trial court properly struck a balance between Eleanor's need and LaVern's ability to pay. Furthermore, we note that LaVern received a credit on alimony payments for the first five years mitigating his initial financial burden. Under the circumstances of this case, we are not inclined to decrease the award.

We also conclude that the property division was equitable. Eleanor received a substantial amount of property due to the trial court's concern that alimony payments would not be made. This concern was entirely justified by the record and was an appropriate consideration by the court. See Iowa Code § 598.21(1)(h) (1983).

Finding no error, we affirm in all respects.

AFFIRMED.