IN THE COURT OF APPEALS OF IOWA

FILED
FEB 26 1985
CLERK SUPREME COURT

IN RE THE MARRIAGE OF JOHN P. ROEHRICK AND SHARON ANN ROEHRICK

Upon the Petition of)
JOHN P. ROEHRICK,)
Petitioner-Appellant,) Filed February 26, 1985
And Concerning)
SHARON ANN ROEHRICK,) 4-517
Respondent-Appellee.) 84-213

Appeal from the Iowa District Court for Polk County - Jack D. Levine, Judge.

Petitioner appeals the economic provisions of the parties' dissolution decree. AFFIRMED AS MODIFIED.

Tom Hyland and Thomas P. Schlapkohl of Hyland, Laden & Pearson, P.C., Des Moines, for petitioner-appellant.

Anna I. Shinkle of Shinkle and Shinkle, Des Moines, for respondent-appellee.

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

SCHLEGEL, P.J.

Petitioner, John Roehrick, appeals the economic provisions of the parties' dissolution decree. He argues that the court incorrectly valued his law practice and that alimony payments to Sharon should be reduced. We affirm as modified.

Our scope of review in this equity case is de novo. Iowa R. App. P. 4. Although we give weight to the factfindings of the trial court, we are not bound by them. Iowa R. App. P. 14(f)(7).

I. Property Division. John's main contention is that the court placed an incorrect value on his law practice, which was operated with three other attorneys as a professional corporation. We agree.

At trial John testified that his share of the law practice was $14,204. Sharon presented an expert witness, Terry Parkinson, who testified that the practice was worth much more. Parkinson began with the $14,204 figure (John's share of the professional corporation's book value) and made several adjustments. He arrived at a figure of $108,341, excluding any allowance for good will.

The trial court accepted Parkinson's evaluation and determined the good will to be $1,659, for a total of $110,000. The trial court ordered John to pay Sharon one-half, or $55,000, payable in $5,500 annual installments commencing January 1, 1985, with the unpaid balance drawing ten percent interest per annum.

John argues that it was improper for the court to accept Parkinson's evaluation of unrecorded accounts receivable and work in progress as worth $79,995. He especially complains that the evaluation of work in progress includes an allowance of $47,000 for work done on a contingency basis. Of course, any valuation of such work is quite speculative. Nonetheless, equity demands that some attempt be made to fairly value the contingency work. The record shows that Parkinson made adjustments to reflect the speculative nature of the work. Those adjustments appear reasonable and John has not suggested any alternative valuation. We therefore accept the value Parkinson assigned to work in progress.

We agree with John, however, that Parkinson and the trial court erred when they included the full value of the receivables and work in progress in the value of the law practice. The books of the professional corporation were kept on a cash basis. The books, therefore, did not include certain assets of the corporation that would be included under an accrual method of accounting. Because such assets were not included, the book value of the corporation was less than the value would be under an accrual method.

Parkinson made adjustments to the corporation's book value so that he could arrive at a figure that would correspond to the net worth of the corporation as determined under an accrual system. In doing so, he properly considered the value of the receivables and work in process. Yet, it is apparent that Parkinson forgot the basic accounting principle that net worth is equal to assets minus liabilities. He also forgot to apply the matching principle that is used in the accrual method of accounting.

Specifically, Parkinson did not subtract the liabilities that matched the receivables and work in progress. The practice of the professional corporation was that when fees were received, sixty percent went to the attorney who worked on the account and forty percent went to the corporation for overhead. In short, the sixty percent should be properly characterized as accrued wages payable. That amount is a liability which should be matched against the receivables and work in progress. That amount does not belong to the corporation. Only the forty percent dedicated to paying overhead belongs to the corporation.

If the trial court's decree is allowed to stand, Sharon will be awarded half of John's fees from the receivables in question, and in addition, John will be expected to pay alimony from those same fees. Such a result is inequitable. See Kronforst v. Kronforst, 21 Wis. 2d 54, 63-64, 123 N.W.2d 528, 534 (1963).

We therefore conclude the valuation of John's share in the law practice must be reduced. The figure for receivables and work in progress must be reduced by

sixty percent, or $48,000. Thus, we value John's share of the law practice at $62,000. John shall pay Sharon one-half, or $31,000, payable in annual installments of $3,100. The unpaid balance shall draw 10% interest per year, commencing January 1, 1985. The first annual installment shall be paid within 60 days after this opinion is filed. The remaining payments are due on January 1 of each successive year. We affirm all other provisions of the property award.

II. Alimony. John has also challeged the alimony provisions of the dissolution decree. John's income in the two years before this case was tried averaged $73,500 per year. During that period Sharon's yearly salary for the same period was $12,800. In light of the disparity in incomes, we find that the trial court's award of alimony was equitable. We affirm the alimony award.

AFFIRMED AS MODIFIED.

Sackett, J., and Hayden, J., specially concur.

I concur with the majority in their modification of the property division. In my determination that the property division should be modified I have considered also the fact that because the corporation operates on a cash basis an adjustment needs to be made for income taxes which will be owed on receivables.

Hayden, J., joins this special concurrence.