FILED
MAY 26 1981
CLERK SUPREME COURT

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IN THE IOWA COURT OF APPEALS

IN RE THE MARRIAGE OF CHARLES R. SMALLEY AND PATRICIA K. SMALLEY

Upon the Petition of)
CHARLES R. SMALLEY,) Filed May 26, 1981
Petitioner-Appellant,)
And Concerning)
PATRICIA K. SMALLEY,) 1-49
Respondent-Appellee.) 2-64770

Appeal from Polk District Court - Harry Perkins, Judge

Petitioner husband appeals from economic provisions of the parties' dissolution decree. AFFIRMED.

Arvid D. Oliver of Baird, Bowers & Oliver, Des Moines, for petitioner-appellant.

Patrick W. Brick of Scalise, Scism, Gentry, Brick & Brick, Des Moines, for respondent-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

DONIELSON, J.

Petitioner Charles Smalley appeals from economic provisions of the parties' dissolution decree, contending that the property division and the alimony award were inequitable. We affirm.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4.

I.

The twenty-one year marriage of Charles and Patricia Smalley was dissolved by a decree entered January 18, 1980. Petitioner was ordered to pay alimony of $1500 per month until respondent's remarriage or the death of either party and $400 per month in child support for the one remaining minor child, custody of whom was given to the respondent. The respondent also received the family home, $20,000 from a savings account, and a property settlement of $100,000 at nine per cent interest.

The respondent has not worked outside the home since the birth of the couple's first child in 1958. She estimated monthly expenses for herself and the minor child (who was seventeen at the time of the decree) at $2408. Petitioner is vice-president, secretary, and twenty per cent owner of a concrete firm with an annual salary of $52,000 and a 1978 taxable income of $99,501.

II.

Petitioner first contends that the trial court incorrectly valued several of the parties' assets and that therefore the property division was inequitable. We disagree.

For the purposes of property division, the trial court placed these values on the following assets: 1) a lot in Colorado, $13,000; 2) petitioner's interest in his concrete firm, $346,812; 3) petitioner's share of N.W. Company stock, $70,000; and 4) petitioner's interest in two development properties, $39,800. Petitioner now contends that the lot in Colorado has no present value; that the actual value of his interest in his concrete firm is $266,000; that his share of N.W. Company stock is $48,366; and that his interest in the development properties is $19,166. With respect to the lot in Colorado and petitioner's interest in his concrete firm, the values adopted by the trial court were taken from the petitioner's own financial statement. Petitioner contends that the $70,000 value placed on the N.W. Company stock is erroneous because it includes a sum that was due the stockholders but that had not yet been distributed at the time petitioner prepared his financial statement. However, since the petitioner admitted that this income was due to be distributed not long thereafter, we find no error in

including it as marital assets. Lastly, although the petitioner alleges that his share of interest in the development properties should have been reduced by his share of the corporation's liabilities, we are not persuaded by this argument. Accordingly, noting that the trier of fact is free to accept or reject any or all opinion evidence as to the value of property, Schantz v. Schantz, 163 N.W.2d 398, 404 (Iowa 1968), we affirm the trial court's conclusions as to the value of the parties' assets and we uphold the property division as an equitable one.

III.

Nor do we find any merit in petitioner's contention that the alimony award was excessive. Factors to be considered in awarding alimony are enumerated in Schantz, 163 N.W.2d at 405. Applying these criteria to the instant case, we note that the respondent wife was forty years old at the time of the decree and had not worked outside the home during the entire twenty-one year marriage. She had had one semester of college prior to marrying the petitioner, who was forty-one at the time of the decree and had a high school education. Petitioner has a far greater earning capacity than the respondent, based upon the latter's present capabilities and level of training. None of this is disputed by the petitioner; he merely contends that his ex-wife is not entitled to this amount of alimony because his income may decrease in the future. His taxable income was $70,819 in 1977 and $99,501 in 1978. Based on the facts available to us at this time, we think the amount of the alimony award was justified.

AFFIRMED.