FILED
APR 27 1982
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF R. L. LAUTENBACH AND NANCY R. LAUTENBACH

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UPON THE PETITION OF
R. L. LAUTENBACH,

Petitioner-Appellant,

AND CONCERNING
NANCY R. LAUTENBACH,

Respondent-Appellee.

Filed April 27, 1982

2-111
2-66990

Appeal from Dallas District Court, M.J.V. Hayden, Judge.

The husband appeals from the economic provisions of the parties' dissolution decree. The wife cross-appeals the alimony provision. AFFIRMED WITH MODIFICATION.

Rex Vincent Roupe, West Des Moines, for petitioner-appellant.

Robert H. Laden of Hyland, Laden & Pearson, P.C., Des Moines, for respondent-appellee.

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

The husband appeals from the economic provisions of the parties' dissolution decree. The wife cross-appeals the alimony provision. We affirm with modification.

The parties were married in 1962. There are no minor children affected by this action. During the marriage, the husband worked for Corn States Metal Fabricators, now a subsidiary of HRL Enterprises. He now owns 30.44 percent of the stock of HRL. His adjusted gross income from 1975 through 1980 ranged from $78,904 to $147,503. The wife was not employed outside the home during the marriage.

The trial court found that the parties came into the marriage with approximately equal assets. The wife's assets were used during the marriage, while the husband retained his. At the time of the trial, the value of the parties' stock in HRL Enterprises was $550,000. The parties' home was valued at $350,000, with a mortgage balance of $33,847.00. The wife testified that she needed $2600 per month to maintain her accustomed life-style.

In making its property division, the trial court granted each party the personal property in his or her possession. The husband was given the HRL stock and the parties' home, and was to be solely liable for the debt on the home. His assets totaled $865,000. The wife was given a $400,000 property settlement, to be paid $50,000 per year, with 10 percent interest on the unpaid balance.

The husband was ordered to pay $1300 per month alimony to the wife for 121 months, terminating upon the death of either party or the wife's remarriage. The husband was to maintain life insurance policies with a total face value of $95,000, with the wife as beneficiary. The husband was ordered to pay the debts of the parties, which amounted to $114,572, the wife's expert witness fees of $2617, and $4000 toward the wife's attorney fees.

The husband appealed, asserting that the trial court erred by (1) awarding the wife an excessively large property settlement; (2) awarding alimony or making an alimony award that was excessive in amount or duration; (3) awarding attorney fees to the wife; (4) establishing the value of the HRL stock; (5) taking the husband's accrued but unpaid salary into consideration; (6) and by ordering the husband to pay expert witness fees. The husband also argues that he should not have to pay attorney fees for the wife on appeal.

The wife on cross-appeal argues that the alimony award was inadequate with respect to both amount and duration.

We believe the property division made by the trial court was equitable. The trial court properly considered the criteria in § 598.21, The Code 1981, in making its division. We therefore affirm the division.

We affirm the award of alimony with the following modification: the payments are to end only upon the death of either party or the remarriage of the wife. Due to her age, limited education, and limited earning capacity, it is unlikely the wife will be able to support herself in the life-style maintained during the marriage. In addition, she will be ineligible for Social Security or any other retirement benefit because she has not worked outside the home. Therefore, alimony payments should not be limited to a period of 121 months.

All aspects of the trial court decree not specifically modified by this opinion are affirmed.

Each party is to be responsible for his or her own attorney fees on appeal.

AFFIRMED AS MODIFIED.

Oxberger, C.J., and Carter concur and Johnson, J., dissents.

JOHNSON, J. (dissenting)

I dissent. Based upon respondent's age, education, earning capabilities, and needs, together with petitioner's ability to pay, I believe respondent should receive alimony in the amount of $2,000 per month until the death of either party or respondent's remarriage.