IN THE COURT OF APPEALS OF IOWA

FILED
JAN 24 1984
CLERK SUPREME COURT

IN RE THE MARRIAGE OF GERRY K. DRAKE AND RITA M. DRAKE

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| UPON THE PETITION OF<br>GERRY K. DRAKE, | ) | Filed January 24, 1984 |
| Petitioner-Appellee/Cross-Appellant, | ) | 3-430<br>83-542 |
| AND CONCERNING<br>RITA M. DRAKE, | ) | |
| Respondent-Appellant/Cross-Appellee. | ) | |

Appeal from the Iowa District Court for Guthrie County—Jack D. Levin, Judge.

Respondent-wife appeals and petitioner-husband cross-appeals from the decree dissolving the parties' marriage. AFFIRMED.

Thomas H. Miller of Taylor, Feilmeyer, Miller & Dinkla, Guthrie Center, for respondent-appellant.

G. Robert Sackett of Willis & Sackett, Perry, for petitioner-appellee.

Considered by Oxberger, C.J., and Snell and Schlegel, JJ.

**OXBERGER, C.J.**

Respondent-wife appeals and petitioner-husband cross-appeals from the decree dissolving the parties' marriage. We affirm.

**I. Scope of Review**

Our review of this equitable proceeding is de novo. In re Marriage of Castle, 312 N.W.2d 147, 148 (Iowa Ct. App. 1981). We review the facts as well as the law and determine rights anew from the credible evidence on properly presented and preserved issues. In re Marriage of Full, 255 N.W.2d 153, 158 (Iowa 1977). While we give weight to the findings of the trial court, especially where the credibility of witnesses is involved, we are not bound by them. Iowa R. App. P. 14(f)(7).

**II. Valuation**

The general rule is that stock should be valued at market value if it can reasonably be ascertained. In re Marriage of Moffatt, 279 N.W.2d 15, 19 (Iowa 1979). The trial court based its computation of stock value on a sale transaction based on book value that occurred in 1981 from a fourth partner of this same corporation, who, at age seventy, wanted to retire from the business. It was an arms-length transaction by an unrelated shareholder who had been in the elevator business for many years. We hold the court's reliance on this transaction as the fair market value of Gerry's stock to be proper.

**III. Alimony**

Payment of alimony is not an absolute right; it must be determined in light of all the circumstances. In re Marriage of Bevers, 326 N.W.2d 896, 900 (Iowa 1982). Alimony involves the wife's need for support and the husband's ability to pay. In re Marriage of Jones, 309 N.W.2d 457, 460 (Iowa 1981). Gerry in his cross-appeal is not contesting the $400 per month alimony, but contends it should be

temporary as opposed to permanent.

Rita is forty-four years old. She has spent the majority of the twenty-five years of marriage raising four sons. Her job skills amount to walking beans, cleaning houses, and waitressing. She has a high school diploma and had taken a secretarial course 25 years ago. Rita's need for permanent support is evident, as is Gerry's ability to pay. Gerry earns $19,500 annually. He received a $12,000 bonus in 1982. We affirm the alimony award.

**IV. Attorneys Fees**

The trial court ordered Gerry to pay $1000 toward Rita's attorney fees. Gerry contends we should eliminate that award. However, we give weight to the trial court finding and conclude the award was justified and should not be reduced or eliminated. In re Marriage of Williams, 303 N.W.2d 160, 167 (Iowa 1981).

Rita also requests attorney fees for services rendered on appeal. We have authority to grant such a request. Id. at 161. Such a grant is generally based on the parties' respective abilities to pay. Id. at 167. We hold that Gerry shall pay $450 towards Rita's attorney fees and all the court costs.

AFFIRMED.