

IN THE COURT OF APPEALS OF IOWA

No. 1-623 / 91-531

IN RE THE MARRIAGE OF KATHRYN LEE FLANDERS AND
THOMAS ANTHONY FLANDERS

FILED

MAY 28 1992

CLERK SUPREME COURT

Upon the Petition of

KATHRYN LEE FLANDERS,

Petitioner-Appellant,

And Concerning

THOMAS ANTHONY FLANDERS,

Respondent-Appellee.

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Appeal from the Iowa District Court for Marion County,
Thomas S. Bown, Judge.

Wife appeals from a dissolution decree, challenging its
economic provisions. **AFFIRMED.**

Tim Pearson of Hyland, Laden & Pearson, P.C.,
Des Moines, for appellant.

Patrick W. Brick of Brick, Seckington, Bowers, Swartz &
Gentry, P.C., Des Moines, for appellee.

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

SACKETT, J.

This appeal challenges the financial provisions of a decree dissolving a thirteen-year marriage. Appellant Kathryn Lee Flanders contends the trial court should have awarded her additional property, alimony, and attorney fees. We affirm.

The parties were married in 1977 and have three sons born in 1972, 1978, and 1980. At the time of marriage Kathryn was a nurse employed at the University of Iowa Hospitals in Iowa City. Appellee Thomas Anthony Flanders was working on a graduate degree. Kathryn was employed as a nurse during the first seven years of the marriage and resumed employment as a nurse in January 1990. She has an annual income of about \$27,000. Thomas is employed as a management consultant and earns about \$31,800 annually.

The parties entered the marriage with few assets. When the marriage was dissolved they had equity in a home in Pella, a retirement account, and personal property including a number of vehicles.

The trial court awarded Kathryn a retirement account of \$40,858, and a vehicle. The trial court awarded Thomas vehicles and the parties' home in Pella. Kathryn contends the trial court's division resulted in her receiving about 31 percent of the parties' assets. Thomas argues the trial court's division resulted in Kathryn receiving in excess of one-half of the parties' net worth.

Our review is de novo. See Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact-findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

The question is whether the trial court made an equitable division. We consider property division and alimony together in evaluating their individual sufficiency. In re Marriage of Dahl, 418 N.W.2d 358, 359 (Iowa App. 1987); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). The partners in a marriage are "entitled to a just and equitable share of the property accumulated through their joint efforts." In re Marriage of Havran, 406 N.W.2d 450, 452 (Iowa App. 1987).

The difference between the parties' valuations of the property hinges on the valuation of the Pella house that went to Thomas. The evidence as to its value varied forty thousand dollars. We find the value placed on the assets by the trial court to be well within the permissible range of evidence and will not disturb them on appeal. See In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). We affirm.

Kathryn also claims she should have been awarded alimony. "When determining the appropriateness of alimony, the court must consider (1) the earning capacity of each party, and (2) present standards of living and ability to pay balanced against relative needs of the other." In re Marriage of Estlund, 344 N.W.2d 276, 281 (Iowa App. 1983). Alimony is an allowance to the ex-spouse in lieu of a legal obligation to support that person. See In re Marriage of Hitchcock, 309 N.W.2d 432, 437 (Iowa App. 1983). Alimony is not an absolute right; an award depends upon the circumstances of each particular case. In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976). The discretionary award of alimony is made after considering those factors listed in Iowa Code section 598.21(3). See In re Marriage of Hayne, 334 N.W.2d 347, 350 (Iowa App. 1983). Kathryn is gainfully employed in a secure profession. During the marriage, she worked outside the home for about seven years and has FICA coverage. She leaves the marriage with a substantial pension account. There is no basis to award her alimony.

Kathryn contends she should have been awarded attorney fees. An award of attorney fees is not a matter of right, but rests within the court's discretion and the parties' financial positions. See In re Marriage of Kern, 407 N.W.2d 387, 390 (Iowa App. 1987). We are to consider the needs of the party making the request, the ability of the

other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa App. 1981). The trial court did not abuse its discretion.

AFFIRMED.