FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF LINDA M. WARNER AND EDWARD G. WARNER

Upon the Petition of)

LINDA M. WARNER,)

Petitioner-Appellant,)

And Concerning)

EDWARD G. WARNER,)

Respondent-Appellee.)

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Filed February 26, 1986

5-633
85-156

Appeal from the Iowa District Court for Wapello County (No. 3083-0983) - Richard J. Vogel, Judge.

Petitioner appeals the economic provisions of the decree dissolving the parties' marriage. **AFFIRMED.**

Charles F. Fairall and Richard N. Carlson of Fairall, Fairall & Kaplan, Marshalltown, for petitioner-appellant.

Garold F. Heslinga of Heslinga & Heslinga, Oskaloosa, for respondent-appellee.

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

Petitioner Linda M. Warner and respondent Edward G. Warner were married in June of 1973. No children were born of the marriage. Each party brought about the same value of assets into the marriage and had the same educational background. Both are in good physical health.

During the course of the marriage, through joint efforts, the parties acquired substantial assets including an interest in five farms, substantial cattle inventory, a horse business, vehicles, and equipment. They also acquired over $600,000 of indebtedness. The parties formed Warner Livestock, Inc. and transferred most of their assets to the corporation. For purposes of the dissolution, the parties agreed that all of their property, including the corporate property, would be considered as owned by the parties. The parties were in substantial disagreement as to the net worth of their assets. Linda believed their net worth was around $543,000. Edward urged the trial court to find the net worth to be $193,000. The parties presented four appraisals of the farmland by four individuals. The trial court assessed the parties' net worth (excluding Three States Accounting, an oil accounting partnership) at $203,000.

On appeal, Linda contends that the trial court did not make an equitable division of the parties' property. She also argues that the trial court erred in denying her alimony.

Our review is de novo. Iowa R. App. P. 4 (1983). We are not bound by the findings of the trial court, but we give them weight. Iowa R. App. P. 14(f)(7) (1983).

Property Division. Iowa Code section 598.21(1) (1985) requires the court to equitably divide all property of the parties and lists criteria for consideration. We reject any rule based on a percentage division of the assets. In re Marriage of Lattig, 318 N.W.2d 811, 814 (Iowa Ct. App. 1982). We are not bound to achieve

a precisely equal division in property awards. In re Marriage of Anderson, 243 N.W.2d 562, 564 (Iowa 1976). "Division of property is based on each marital partner's right to a just and equitable share of the property accumulated as the result of their joint efforts." In re Marriage of Hitchcock, 309 N.W.2d 432, 437 (Iowa 1981). Generally, where valuation of real estate by trial court is within the permissible range of the evidence, we are not inclined to disturb it. In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973); Schantz v. Schantz, 163 N.W.2d 398, 404 (Iowa 1968).

A. Real Estate. The value of one of the parties' properties, the Marshall County farm, is not disputed. It is valued at $54,140 subject to a mortgage of $51,120. Each party called two qualified witnesses to testify as to the value of the four other farms. Linda's valuation witnesses testified the value of the South, Home, Bates, and Gray farms from $492,000 to $500,000. Those testifying for Edward appraised the farms at $340,000 to $351,500. The trial court determined a valuation of $394,000 for the four farms to be reasonable and fair. Without question the trier of fact is at liberty to accept or reject any or all opinion evidence. Schantz, 163 N.W.2d at 404.

Our examination of the record fails to disclose any reason for us to disagree with the court's finding. We conclude that the court's valuation is within the permissible range of the evidence.

B. Cattle Inventory. Edward's financial statement valued the cattle inventory, including feed and hay, at $164,079. Linda's affidavit of financial status valued the cattle inventory, exclusive of feed and hay, at $357,750. The court adopted Edward's figure as the appropriate valuation, finding that "much of [Linda's] testimony is unfounded."

Linda argues on appeal that there were at least 180 more cattle than Edward's head count showed. However, Linda did not attempt to verify her

allegations by actual count and there is no other evidence in the record to support her valuation. We conclude that the trial court did not err in valuing the cattle inventory at $164,079.

We also affirm the remainder of the trial court's property division.

Alimony. The criteria to be considered in awarding alimony have been codified in Iowa Code section 598.21(3) (1985). While payment of alimony is not an absolute right, it is awarded out of fairness, according to the peculiar circumstances of each case. In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976). Alimony is awarded based on the earning capacity of the parties and present standards of living balanced against the relative needs of the parties. In re Marriage of Hitchcock, 309 N.W.2d 432, 436-37 (Iowa 1981). The spouse with the lesser earning capacity is entitled to be supported, for a reasonable time, in a manner as closely resembling the standards existing during the marriage as possible. In re Marriage of Hayne, 334 N.W.2d 347, 351 (Iowa Ct. App. 1983). Two of the factors to be given great weight in such a determination are the duration of the marriage and the ability of the supported spouse to engage in gainful employment. In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972).

Linda argues that she is entitled to alimony in this case because of her substantial contributions to the operation of the parties' businesses. Linda intends to extend the horse breeding operation which she established during the marriage and testified that it will take several years to build up the business. She estimated her net profits even after five years would be less than $14,000. We recognize that according to all of the testimony Linda worked as hard as a hired man, loading and unloading cattle trucks, feeding cattle, cleaning the barns, sorting and vaccinating cattle, as well as bookkeeping. We also acknowledge that the parties lived a fairly expensive life-style when the farm economy was

high. However, the economy has changed and both parties must adjust their life-styles accordingly. This is not the case of a marriage of extended duration. The parties were married eleven years. Linda was only 35 years old at the time of trial and is capable of earning her own support. There is no evidence in the record that Linda has a lesser earning capacity than Edward. Edward is allocated over $575,000 of debt in the dissolution decree. Given this indebtedness, we cannot justify an award of alimony to Linda. We, therefore, affirm the trial court's determination not to award alimony in this case.

AFFIRMED.