

IN THE COURT OF APPEALS OF IOWA

No. 2-345 / 91-1558

FILED

SEP 29 1992

CLERK SUPREME COURT

IN RE THE MARRIAGE OF BARBARA J. MARTIN AND JOHN W. MARTIN

Upon the Petition of

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BARBARA J. MARTIN,

Appellee,

And Concerning

JOHN W. MARTIN,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, James C. Bauch, Judge.

John Martin appeals the district court's dissolution decree ordering him to pay Barbara Martin \$750 per month in alimony. **AFFIRMED.**

Timothy J. Luce of Randall, Anfinson & Luce, Waterloo, for appellant.

D. Quinn Martin of Martin, Nutting, Miller, Keith, Pedersen & Kelsen, Waterloo, for appellee.

Considered by Donielson, P.J., and Hayden and Habhab, JJ.

HABHAB, J.

FACTS

John and Barbara Martin were married on July 31, 1965, and divorced on September 9, 1991. Two children were born of the marriage, but they had both reached the age of majority at the time of trial.

John was born in December 1943. He has a high school education and has worked at John Deere since 1966. He is eligible to retire after thirty years. In February 1991, John's salary was approximately \$4675 per month.

Barbara was born in May 1945. She has a high school education. Additionally, Barbara enrolled in a paralegal training course but had to drop out because of her inability to handle her studies and classroom work in addition to all of her duties at home.

During the marriage, Barbara was the primary caretaker of the children and did all of the cooking, cleaning, laundry, and bill paying for the family. She also worked sporadically outside the home. At the time of trial, Barbara worked as a store manager for a Mother's Care store in Davenport where she earned approximately \$280 gross income per week.

In December 1990, Barbara filed a petition for dissolution of marriage. The case proceeded to trial. Following trial, the district court awarded Barbara one-half of John's John Deere pension benefits which had accrued as of September 6, 1991. It also required John to

furnish John Deere medical insurance to Barbara for three years, with Barbara sharing equally in the costs. The district court divided the marital property equally between the parties.¹ Further, it ordered John to pay Barbara \$750 per month in alimony until Barbara remarries, dies, cohabits with another man, or until John starts receiving his pension, whichever first occurs. John filed this appeal, challenging the alimony award. We affirm.

SCOPE OF REVIEW

Our review in cases such as these is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We are not bound by these determinations, however. Id. Prior cases have little precedential value, and we must base our decision primarily on the particular circumstances of the parties presently before us. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983).

ANALYSIS

John argues the district court erred in awarding Barbara \$750 per month in alimony for an indefinite time period. We disagree.

1. The district court awarded Barbara one-half of the sale proceeds from the sale of the parties' homestead, one-half of the sale proceeds from the sale of the boat, her motor vehicle and other miscellaneous personal property items.

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) (citation omitted). Alimony is an allowance to the former spouse in lieu of a legal obligation to support that person. See In re Marriage of Hitchcock, 309 N.W.2d 432, 437 (Iowa 1981).

The district court ordered John to pay Barbara \$750 per month in alimony until Barbara remarries, dies, cohabits with another man, or until John starts receiving his pension, whichever first occurs. It cut off the alimony at the time of the commencement of pension benefits for the reason that the district court awarded Barbara a Qualified Domestic Relations Order giving her 50% of John's pension through the date of the decree with no sharing of the pension to be had for any pension benefits that accrue after that time. We find the district court's award of alimony to be equitable under the circumstances. After considering all issues presented, we affirm the district court.

Costs of this appeal are taxed to the appellant.

AFFIRMED.