FILED
JUN 4 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF HARLEY R. WILLOUGHBY AND DOROTHY M. WILLOUGHBY

Upon the Petition of	)	472
HARLEY R. WILLOUGHBY,	)	
Petitioner-Appellant/ Cross-Appellee,	)	FILED JUNE 4, 1986
And Concerning	)	
DOROTHY M. WILLOUGHBY,	)	6-68 / 85-597
Respondent-Appellee/ Cross-Appellant.	)	

Appeal from the Iowa District Court for Cass County (855 & CDM766) - Keith E. Burgett, Judge.

The husband appeals and the wife cross-appeals from a dissolution decree, both parties challenging various economic provisions of the decree. **AFFIRMED.**

Ann Fitzgibbons of Scalise, Scism, Sandre & Uhl, Des Moines, Iowa, for the petitioner-appellant/cross-appellee.

Maynard S. Telpner of Telpner, Smith & Sawatzke, Council Bluffs, Iowa, for respondent-appellee/cross-appellant.

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

HAYDEN, J.

The husband appeals and the wife cross-appeals from a dissolution decree. Both parties challenge various economic provisions of the decree. We affirm.

Dorothy and Harley Willoughby were married in 1955. They have two adult children. One daughter is mildly retarded; she lives alone, but requires some assistance from Dorothy to function independently.

Harley operated a farm throughout the marriage. Dorothy was primarily a homemaker, although she helped with farm work and held some part-time jobs.

Both parties are in their mid-fifties. Dorothy suffers from diabetes and has had a cancerous breast removed; her doctors indicated that the surgery probably did not remove all of the cancer. Dorothy also suffers from neck, back, and hip problems.

The trial court originally awarded Dorothy alimony of $1,000 per month. However, in response to Harley's motion for a new trial, the alimony award was reduced to $650 per month.

As her share of the property, Dorothy received $100,000 payable in five annual installments of $10,000, with the balance due the sixth year. She was also awarded various items of personal property and $1,000 in lieu of a car. Dorothy was directed to assume debts of approximately $14,000.

Harley was awarded the parties' 200-acre farm, farm equipment, and crops on hand. The farm was valued at $150,000; the farm equipment and crops were determined to be worth $145,000. The trial court also set aside to Harley a one-quarter interest he had inherited in a family farm. This interest was valued at $40,000. Harley was directed to assume farm-related debts of approximately $107,000. He was further directed to contribute $1,500 toward Dorothy's attorney fees.

Our review of this equitable action is de novo. Iowa R. App. P. 4. While we give deference to the findings of the trial court, we are not bound by them. Iowa R. App. P. 14(f)(7).

I.

Both parties to this action maintain that the award of alimony is inequitable. Harley argues that no alimony should have been awarded. Dorothy claims that the trial court erred in reducing the award from $1,000 per month to $650 per month.

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 1967). 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).

We have reviewed the record and find that the trial court appropriately considered these factors in arriving at $650 per month alimony. The support obligation reflects an equitable balance between Dorothy's needs and Harley's ability to pay.

II.

Harley also claims the property division is inequitable in three respects: (1) the court erred in failing to set aside $30,000 he inherited from his mother and $8,500 in cash gifts from his parents; (2) Dorothy should not be awarded

interest on her $100,000 share of the property; and (3) payments should be over a ten-year period.

In our de novo review, we determine that the property division should not be disturbed. Under the circumstances of this case, it would be inequitable not to divide Harley's inheritance and the cash gifts he received. See Iowa Code § 598.21(2) (1985). We also conclude that it is equitable to have Harley pay $100,000 to Dorothy over a six-year period with interest.

III.

The remaining issues before this court concern attorney fees. Harley contends the trial court erred in requiring him to contribute $1,500 toward Dorothy's attorney fees. Dorothy requests attorney fees and costs on appeal.

We affirm the award of trial attorney fees and direct each party to pay his or her own fees and costs on appeal.

AFFIRMED.