FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF DARLENE TAGUE AND NORMAN TAGUE

Upon the Petition of	)	
DARLENE TAGUE,	)	Filed September 27, 1983
Petitioner-Appellee,	)	
And Concerning	)	
NORMAN TAGUE,	)	3-249 2-69313
Respondent-Appellant.	)	

Appeal from Guthrie District Court - James W. Brown, Judge.

Respondent appeals from the economic provisions of the parties' dissolution decree. AFFIRMED.

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

Ronald S. Eich of Wunschel, Eich & McMinimee, P.C., Carroll, for petitioner-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Schlegel, and Hayden, JJ. Sackett, J., takes no part.

PER CURIAM

Respondent, Norman Tague, appeals from the economic provisions of the parties' dissolution decree. Norman asserts that the property division and the award of $500 alimony per month taken together are inequitable. We affirm.

The parties were married in 1951. Norman operates a service station from which he had a 1981 income of $11,322. Darlene helped with the bookkeeping for the service station business. She primarily worked as a housewife and as a mother to the parties' three adult children. Darlene also had an income in 1981 of $1,833 from the sale of Aloe Vera products. Her ability to continue that business, however, is in doubt because of her frequent hospitalizations for Crohn's disease. Darlene developed the disease in 1961 and has had 14 major surgeries and two minor surgeries since that time. The disease has been diagnosed as incurable and future uninsured medical costs could be over $30,000 per year.

The trial court awarded Darlene the family residence and furnishings, an automobile, and the assets of her part-time business. Norman was awarded the business assets and an automobile. According to the trial court's calculations, the net value of property received by Darlene was $46,127 and the net value of property received by Norman was $63,007. The trial court further ordered Norman to pay Darlene $8,500 to be paid in monthly installments of $100 with 10 percent per annum interest on the remaining principal. The trial court also awarded Darlene $500 per month alimony.

Our review is **de novo**. In re Marriage of Hitchcock, 309 N.W.2d 432, 433 (Iowa 1981). In order to equitably determine the parties' financial or property rights, we apply the statutory criteria of Iowa Code section 598.21(1) for property division and of Iowa Code section 598.21(3) for support payments.

Although property rights and alimony are closely related, they are distinguishable and have differing purposes. In re Marriage of Hitchcock, 309 N.W. 2d at 437. Division of property is based on each marital partner's right to a

just and equitable share of the property accumulated as a result of their joint efforts. Knipfer v. Knipfer, 259 Iowa 347, 353, 144 N.W.2d 140, 143 (1966). Alimony is an allowance to the ex-spouse in lieu of a spouse's obligation of support. Id. at 352, 144 N.W. 2d at 143. A court, therefore, must determine whether the property division and alimony taken together are equitable to both parties while keeping in mind the separate purposes of the alimony and property division. See In re Marriage of Cooper, 225 N.W. 2d 915, 919, (Iowa 1975).

Norman's principal complaint is that the payment of $600 per month (combining property division and alimony) is excessive for one with a limited earning capacity of $11,332 per year. Initially we note that Norman's income has declined from $19,443 in 1978 to the present of $11,332 due to "serious trouble" in the automobile business and a decline in sales of farm related supplies. While it is impossible to predict the success or failure of a business, Norman is the only one with any substantial earning capacity. Darlene's health, age, and experience make the likelihood that she will develop any substantial future earning capacity very remote. Moreover, the award of alimony is also based upon the relative need and resources of the parties, not merely earning capacity. See Iowa Code § 598.21 (3).

The trial court noted that the combined expenses of the parties exceeded the income available to them. Clearly the alimony awarded was not sufficient to cover Darlene's expenses. She also is ineligible for social security disability benefits because she had not paid into the system. Under these circumstances, we believe the alimony and property provisions of the parties' dissolution decree are equitable.

Costs on appeal are taxed to Norman. Darlene has also requested attorney fees for this appeal. There is, however, nothing in the record to indicate time or costs upon which to base an award. The parties shall pay their own attorney fees.

AFFIRMED.