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CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF RALPH H. WALLACE and DOROTHEA L. WALLACE

Upon the Petition of	)	
RALPH H. WALLACE,	)	Filed October 7, 1977
Appellee,	)	
And Concerning	)	235
DOROTHEA L. WALLACE,	)	2-59243
Appellant.	)	

Appeal from Cerro Gordo District Court - L. E. Plummer, Judge.

Respondent appeals from economic provisions of a dissolution decree. Affirmed as modified.

Finley and Teas, of Mason City, for appellee.

Brown, Kinsey and Funkhouser, of Mason City, for appellant.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

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PER CURIAM

Respondent, Dorothea Wallace, appeals the property settlement and alimony provisions of the January 30, 1976 decree dissolving her 35 year marriage to petitioner, Ralph Wallace.

Our review is de novo. With respect to the economic determinations which we make in this case we apply the criteria set forth in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), excluding considerations of fault. Precedent is of little value in making such determinations and each case must be determined on its own peculiar circumstances.

I. Alimony. The trial court ordered Ralph to pay alimony to Dorothea at the rate of $400 per month until her death or remarriage and provided the obligation should continue as a charge against Ralph's estate. In making this award, the trial court determined Dorothea's expenses would be $995 per month and her income, exclusive of alimony, only $100 per month. Nevertheless, it fixed the alimony at only $400 per month because of the belief that this was the most that Ralph was able to pay, considering his own income and necessary expenses.

In view of the fact that part of Ralph's earnings are going toward charitable contributions and the college education expenses of a child who has reached his majority, we believe the alimony provided by the trial court is inadequate. We provide for a modified alimony award of $575 per month, retroactive to the date of the decree and continuing until November 26, 1978, at which time the monthly alimony payment shall revert to $400 per month for the duration of the period provided in the original decree. In addition, as provided in the original decree, the obligation shall continue as a charge against Ralph's estate.

II. Property Settlement. The trial court purported to divide assets found to be worth $90,440 (excluding a few assets not material to the overall property division) so as to give Ralph assets valued at $54,871 and Dorothea assets valued at $35,569.

The principal thrust of Dorothea's argument that this disposition in unfair concerns the proper value to be given 6650 shares of stock in a closely-held corporation awarded to Ralph. The corporation is a professional engineering business founded by Ralph and in which he is still actively engaged. The total outstanding shares number 29,500.

The shares are subject to an agreement with the corporation and the other shareholders thereof requiring the corporation to redeem the shares for an established value upon the death of a shareholder. At the time of the trial this value was $14 per share. It is also provided in this agreement that if, prior to death, the stock is to be sold, the shareholder must first offer it to the corporation for the same established value.

The trial court found that the stock, being closely held, had no market value and, accordingly, assigned to it its book value of $3.95 a share in determining the division of property. Dorothea argues on appeal that the contract established a value of $14 per share for the stock and the trial court should have valued it accordingly. We believe, based upon all of the facts and circumstances disclosed by the record, that this stock was worth substantially more than the value fixed by the trial court and that Dorothea's share of the property division should be increased accordingly. We therefore provide that the portion of the decree dividing the property of the parties be modified so as to provide payment by Ralph to Dorothea of an additional $13,250 as follows: (a) the additional cash payment to Dorothea in paragraph 4 of the decree, now fixed at $10,000 shall be increased to $13,250 with any unpaid portion thereof to be fully paid within 60 days of the issuance of the procedendo; and (b) that as additional property settlement Dorothea shall be awarded judgment against Ralph in the sum of $10,000, which shall be a lien on the home awarded Ralph. This judgment shall draw interest at the rate of 7% per annum. No payment of said judgment shall be required until November 26, 1981, when one-half of the judgment and accrued interest shall be payable. The balance of said judgment, including interest, shall become payable on November 26, 1982.

III. Without attempting to fix the amount of attorney fees owed by Dorothea to her counsel for services on this appeal we direct that Ralph pay the sum of $750 to apply on such fee. Costs are assessed to Ralph. As herein modified the decree of the trial court is affirmed.