FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF LYNN ELLEN WAGNER
AND JOHN ROBERT WAGNER

Upon the Petition of	)	
LYNN ELLEN WAGNER,	)	
Petitioner-Appellee,	)	367
vs.	)	
And Concerning	)	
JOHN ROBERT WAGNER,	)	8-718 88-1042
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Clinton County (No. CD11787), C. H. Pelton, Judge.

Respondent husband appeals from the economic provisions of the dissolution decree. **AFFIRMED.**

James D. Bruhn and Richard W. Farwell of Shaff & Farwell, Clinton, for respondent-appellant.

J. Drew Chambers of Holleran, Shaw, Murphy & Stoutner, Clinton, for petitioner-appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

HAYDEN, J.

The parties were married in 1971. John was thirty-nine years old and Lynn was thirty-seven at the time of trial. They have no children.

John is a high school graduate and has been employed and involved in various family businesses and enterprises. He stated he draws $150 per week from these family enterprises. Lynn is a high school graduate and has worked at the same bank since her graduation. She earns approximately $17,500 annually. John has suffered a form of diabetes for many years. He suffered several strokes in 1986. He is permanently partially paralyzed on his left side. He is ambulatory with the use of a cane. His speech is impaired; however, his memory and thought processes are not affected. His prognosis is guarded and not expected to improve. Lynn's health is good. Both parties came into the marriage with premarital assets, and each received gifts and inheritances during the marriage.

Lynn was awarded the parties' equity in residential real estate valued at about $83,000. She was awarded a $47,500 certificate of deposit and was directed to assume a $39,500 debt for which the certificate had been pledged as security. She was awarded other bank accounts of about $7,500 and her employment pension fund valued at $26,000, as well as a car and various items of personal property.

John was awarded all his interests in two Wagner family businesses valued at $108,614. He was also awarded any interest he may have in a third business, which had recently been sold and its value was unknown. In addition, he was awarded bank accounts of over $10,000, various personal effects, and life insurance policies valued at $10,000.

Neither party was awarded alimony, and each were to pay his or her own attorney fees.

John contends he should receive a larger award of property and he should have alimony because of his health problems. He also contends Lynn should contribute toward his trial attorney fees and he asks for attorney fees on appeal. We affirm.

Our review is de novo. Iowa R. App. P. 4. In equity cases, especially when considering the credibility of witnesses, this court gives weight to the fact findings of the trial curt, but is not bound by them. Iowa R. App. P. 14(f)(7).

John came into the marriage with property with a value of approximately $14,500. During the marriage he inherited one-third of Wagner Realty that now has a value of $80,000. He has an expectancy interest in two certificates of deposit owned by his ninety-three-year-old uncle, one in the amount of $40,000 and another in an amount of $23,000.

Lynn brought $3,000 of savings into the marriage. At about the time of the marriage, she received an inheritance from her grandfather which she brought into the marriage as an IDS account with a value of $67,000. During the marriage she received another inheritance of $27,917. A large portion of her inheritance was invested in the purchase and remodeling of the family home.

John's family has been in the automobile business for many years. He has an interest in three family business enterprises. He inherited one-third of Wagner Realty that holds title to real estate, some of which is used for the other business enterprises. This one-third interest of Wagner Realty has a value of $80,000. John and his mother own and operate Wagner Imports. The value of John's interest in Wagner Imports is not determined. During 1986, it paid him income of $11,200. In 1982, John founded Wagner Marine, Inc., a boat, motor, and trailer dealership. John owns fifty-one percent of the stock and Lynn owns forty-nine percent of the stock. John has exercised exclusive control and operation of this company.

Our supreme court, in the case of In re Marriage of Vrban, 359 N.W.2d 420, 427 (Iowa 1984), indicated a court must weigh a variety of factors in determining how inherited or gifted property should be treated, including: (1) contributions of the parties toward the property, its care, preservation or improvements; (2) the existence of

any independent close relationship between the donor or testator and the spouse of the one to whom the property was given or devised; (3) separate contributions by the parties to their economic welfare to whatever extent those contributions preserve the property for either of them; (4) any special needs of either party; (5) any other matter which would render it plainly unfair to a spouse or child to have the property set aside for the exclusive enjoyment of the donee or devisee. Id. at 427.

Our court held in In re Marriage of Martens, 406 N.W.2d 819, 821-22 (Iowa App. 1987), property which was gifted to a husband and wife in joint tenancy could be held not be a gift to both, but to the wife only, upon a showing the gift lacked donative intent to the husband and relying on the five factors set forth in Vrban.

We determine here the trial court complied with and followed the precepts of Vrban and Martens, as well as the relevant portions of Iowa Code section 598.21 (Iowa 1987), in dividing the marital, gifted, and inherited property of the parties. We do not disturb this division of property.

We affirm the trial court in not awarding John alimony. His financial and business interests do not require him to receive alimony. We also affirm the trial court in not awarding John trial attorney fees.

Each party shall pay his or her own attorney fees on appeal. Costs of appeal are taxed to John Wagner, appellant.

AFFIRMED.