

Circuit Court for Montgomery County

Case No. 125221

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2595

September Term, 2016

EDWARD ASHE

v.

PATRICIA VERBECK ASHE

Eyler, Deborah S.,
Wright,
Friedman,

JJ.

Opinion by Wright, J.

Filed: December 13, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of *stare decisis* or as persuasive authority. Md. Rule 1-104.

Patricia Verbeek Ashe (“Wife”), the appellee, filed, in the Circuit Court for Montgomery County, a Complaint for Absolute Divorce against her husband, Edward Ashe (“Husband”). Husband thereafter filed a Counter Complaint for Absolute Divorce against Wife. Following a three-day trial on the merits, the circuit court entered a judgment granting the parties’ request for a divorce. As part of that judgment, the court also identified and valued the parties’ marital property and granted a monetary award and rehabilitative alimony in favor of Wife. In this appeal, Husband, appellant, presents the following questions for our review:

1. Did the circuit court err in its identification and valuation of the parties’ marital property?
2. Did the circuit court err in awarding Wife 75% of the marital estate?
3. Did the circuit court err in transferring title to the marital home to Wife?
4. Did the circuit court err in its award of rehabilitative alimony?

For reasons to follow, we answer each question in the negative and affirm the judgment of the circuit court.

BACKGROUND

Husband and Wife were married on July 17, 2003, in Montgomery County, Maryland. One child (the “Son”) was born as a result of the marriage. Ultimately, the parties separated on or about November 14, 2013.

Prior to and during the course of the marriage, Husband and Wife acquired numerous properties, including but not limited to: two condominiums located in Florida (the “Condos”); a boat located in Florida (the “Boat”); residential property located at

2208 Luzerne Avenue in Silver Spring, Maryland (the “Luzerne Property”); a home located at 8437 Freyman Drive in Chevy Chase, Maryland (the “Marital Home”); a 215-acre farm located in Overton, Pennsylvania (the “Farm”); an undeveloped residential lot located at 9518 Wightman Road in Gaithersburg, Maryland (“the Gaithersburg Lot”); and, a cabin located at 1564 Riverbend Drive in Paw Paw, West Virginia (the “Cabin”). At trial, Husband and Wife disagreed as to what portion of those properties constituted marital property and how they should be valued.

Regarding the Condos, both of which were acquired during the marriage, Husband testified that they were purchased using monies from a trust in the Son’s name, which was funded using non-marital funds, and that the titles to the Condos were held in the trust’s name. Husband also submitted into evidence a tax bill for one of the Condos (“Condo 1”), which assessed the value of that Condo at \$111,320.00. Wife submitted into evidence a “Zillow estimate” for the other Condo (“Condo 2”), which indicated that that Condo was worth \$374,901.00.¹ On the parties’ Joint Statement Concerning Marital and Non-Marital Property, Husband asserted that the values of Condo 1 and Condo 2 were \$110,000.00 and \$200,000.00, respectively. Wife asserted that the values were \$140,000.00 and \$230,000.00, respectively.

Husband also claimed that the Boat, which was acquired during the marriage, was purchased using monies from the Son’s trust, which, again, Husband claimed was funded

¹ “Zillow” is a commercial website that provides, among other things, an estimated market value for many residential properties. <http://www.zillow.com>

using non-marital funds. Husband testified that he paid approximately \$10,000.00 for the Boat, the fair-market value of which he assessed at approximately \$5,000.00, and that the title to the Boat was held by the trust. Wife asserted that the Boat was marital property and that the fair-market value was approximately \$18,000.00.

As for the Luzerne Property, Husband testified that he purchased the property approximately ten years prior to the marriage and that title to the property was held by revocable trust in his name. Husband testified that the tax-assessed value of the property was \$377,600.00 but that it was encumbered by a mortgage of approximately \$300,000.00. Wife did not dispute that the Luzerne Property was purchased prior to the marriage. She did, however, maintain that, after the parties were married, she made “significant improvements” to the property, including painting and building an office for Husband. She also maintained that, during the marriage, the parties used the property as a rental and that she “cleaned and revamped” the property between rentals. Wife asserted that the value of the property was \$400,000.00.

The parties agreed that the Marital Home, which was titled in both their names as tenants in common, was marital property and that it was encumbered by a mortgage. Husband claimed that he paid the mortgage in full every month until the parties’ separation and that some of those payments came from non-marital funds. Husband also claimed that he used approximately \$40,000.00 in non-marital funds as a down payment when the home was purchased. Wife presented evidence, which Husband did not dispute, that the value of the Marital Home was approximately \$559,367.00. Wife also presented evidence that the home was encumbered by two mortgages, both of which were

in her name alone, and that the total owed on those mortgages was \$268,419.00. Wife testified that she had made improvements to the home throughout the marriage, including taking out the carpet, making curtains, sanding the floor, and performing other tasks around the home.

Regarding the Farm, Husband testified that he inherited the property and that, in 2011, he received, as a result of an oil and gas lease on the property, a one-time royalty of approximately \$1,000,000.00, which was then placed in his Son's trust. Husband testified that, in 2012, he received another one-time royalty of approximately \$204,000.00. Wife testified that, prior to the second royalty, she "had the property surveyed and discovered 35 additional acres," which directly resulted in the parties' receipt of the \$204,000.00.

The court also heard testimony regarding the Gaithersburg Lot, which Husband admitted was originally purchased by Wife and titled in her name only. According to Husband, Wife "became angry and said she did not want the property anymore," so Husband unilaterally assigned the property to the Son's trust and signed Wife's name. Wife testified that she never signed or initialed the contract for sale on the Gaithersburg Lot, that she never authorized Husband to sign her name, and that she did not authorize Husband to transfer the property into the trust. Wife also submitted a property tax assessment on the lot, which estimated the value at approximately \$56,500.00. On the parties' Joint Statement Concerning Marital and Non-Marital Property, Wife asserted that the property was worth \$60,000.00.

As for the Cabin, which was purchased prior to the marriage and later transferred into a revocable trust controlled by Husband, Husband testified that he and Wife “used to go to the cabin approximately 2 to 3 weekends per month” and that, in 2013, the Cabin was renovated to add a basement so that the parties could use the Cabin in the winter. Husband valued the Cabin at approximately \$120,000.00. Wife testified that she had made “significant contributions” to the Cabin and that “a basement was added and other improvements were made” during the marriage. Wife valued the Cabin at approximately \$230,000.00. In support, Wife submitted two pieces of evidence: a Zillow estimate, which assessed the Cabin at \$223,885.00, and an appraisal of the property from when the Cabin was purchased in 1991, which assessed the Cabin at \$104,246.00.

The parties also testified regarding their current and future financial and employment situations. Wife, age 52, testified that she was originally from the Netherlands, where she earned a Legal Master’s Degree in environmental law prior to coming to the United States in 1997. Wife stated, however, that she was not licensed to practice law in the United States. Wife also testified that she had a recent diagnosis of Stage 1 breast cancer and was not able to retain full-time employment due to her medical treatment and frequent doctor visits. Wife stated that she worked two days per week at a doctor’s office and earned approximately \$750.00 per month. Wife also stated that she lived in a rented bedroom in Silver Spring and that she rented out the Marital Home, which was in foreclosure as a result of Husband’s refusal to pay the mortgage. From that, Wife earned an additional \$2,300.00 to \$2,350.00 in rental income per month, which she used to pay the mortgage on the home.

Husband, age 56, testified that he currently lived in one of the parties' Florida Condos. He indicated that he had a Maryland real estate license but that he did not currently work, despite his being employed by his real estate company located in Maryland. Husband claimed that he had not been actively working for his real estate company because it was located in Maryland and he lived in Florida. Husband testified that, in the past, he had the ability to earn an income of approximately \$96,000.00 per year from his real estate company. Husband also testified that many of his properties and bank accounts were held in revocable trusts that he controlled.

In the end, the circuit court made the following findings regarding the parties' marital property:

First, regarding the status of the disputed properties held in trusts, the Court finds that the majority of these trusts are little more than an attempt to hide marital assets. Furthermore, the Court was provided with no documentation of the trusts or bank accounts and is left in the difficult position of determining marital property without adequate documentary evidence. Nonetheless, the trusts involved in this case are revocable trusts controlled solely by Defendant-Husband. As he openly admitted during trial, he has the ability to dissolve said trusts at any time. Therefore, the fact that certain properties are held in revocable trusts shall have no effect on the Court's analysis of what constitutes marital property, as they may be dissolved at any time. Therefore, the disputed properties shall be analyzed as to their designation as marital or non-marital property without regard to whether they are being held under a revocable trust.

Regarding the [Marital Home], the parties agree that it is marital property. Although Defendant-Husband alleges that he contributed \$40,000 of non-marital assets to the purchase of the property, he did not provide any documentation that he did so, and there was testimony at trial that Defendant-Husband has engaged in fraudulent practices regarding the parties' finances Because this home is titled in both parties' names and was used as the principal residence of the parties during the marriage, the Court finds that title to this property can be transferred into Plaintiff-Wife's name only. The Court finds that this transfer is equitable because

Plaintiff-Wife bears the financial burden of this home and has requested that title be transferred to her name.

Looking now to [the Luzerne Property], the Court finds that the home is part marital and part non-marital property. Although the home was purchased prior to the marriage in 1993, following the parties' marriage in 2003, the mortgage was paid using marital funds and [Wife] contributed to the maintenance and improvement of the home during the marriage Therefore, the Court finds that one half of the value of the home is marital and one half of the value is non-marital.

Regarding [the Cabin], the Court finds that it is part marital and part non-marital property. Although the home was purchased in 1991, the home's value increased during the marriage through improvements such as the construction of a basement. Plaintiff-Wife testified that she also cleaned and contributed to the upkeep of the cabin Therefore, the Court finds that twenty-five (25) percent of this property is marital property.

* * *

[The Farm], which was inherited by Defendant-Husband, is non-marital property. However, through the efforts of Plaintiff-Wife, the value of the oil and gas lease on that property increased by \$204,000.00, as she resurveyed the property and discovered previously unaccounted for acreage. Without the efforts of Plaintiff-Wife those additional funds would never have been received, and therefore, the Court finds that \$204,000.00 is marital property.

* * *

[The Gaithersburg Lot] is also marital property. Although the property is currently titled under [the Son's] Trust, the Court finds that this transfer of the title was the result of fraud. Defendant-Husband admitted to forging the name of Plaintiff-Wife on the transfer documents so as to effectuate the transfer of the property into [the Son's] Trust. Prior to that transfer, the property was titled solely in the name of Plaintiff-Wife. Given the act of fraud perpetrated by Defendant-Husband, and the fact that the property was originally purchased for Plaintiff-Wife and titled in her name, the Gaithersburg Lot shall be placed in a constructive trust for the sole benefit of Plaintiff-Wife.

Looking now to [the Condos], the Court finds that both properties are marital. Although [Husband] claimed that the Condos were purchased using non-marital funds derived from the oil and gas lease on [the Farm], he provided no evidence to support such a claim Furthermore, although [Husband] also claimed that the properties were purchased through funds held in trust for the benefit of the parties' Son, no evidence was provided to support this claim. Given the fraud perpetrated by [Husband] in transferring the Gaithersburg Lot into a trust and his blatant attempts to hide property within such trusts, the Court finds his claims not to be credible. Therefore, the two Condos shall be considered marital property.

Similarly, the Boat shall be considered marital property. As with the Florida Condos, Defendant-Husband claims that it was purchased using non-marital funds from the parties' Son's trust. However, no documentation to support his claim was provided, and the Court finds that Defendant-Husband's bare assertion is insufficient to demonstrate that the boat was purchas[ed] using non marital funds. Therefore, given that it was purchased during the marriage, the Court finds the boat to be marital property.

The court ultimately assessed the total value of the marital property at \$1,139,542.00, which included \$549,419.00 for the marital portion of the Marital Home (minus the mortgage of \$268,419.00); \$50,000.00 for the marital portion of the Luzerne Property; \$140,000.00 for the marital portion of Florida Condo 1; \$230,000.00 for the marital portion of Florida Condo 2; \$57,500.00 for the marital portion of the Cabin; \$60,000.00 for the marital portion of the Gaithersburg Lot; \$204,000.00 for the marital portion of the Farm; \$18,000.00 for the marital portion of the Boat; and, \$103,042.00 for the marital portion of various other pieces of property. Of that total, the court determined that \$793,942.00 was titled to Husband and \$345,600 was titled to Wife. The court also assessed Husband's and Wife's non-marital assets, which the court valued at \$1,255,602.87 and \$0, respectively.

The circuit court then engaged in a thorough discussion of the requisite statutory factors to determine whether a monetary award was appropriate. As part of that discussion, the court noted that both parties contributed to the well-being of the family; that Wife was a stay-at-home mother for much of the marriage and, due to poor health, credit score, and age, would have difficulty becoming self-supporting; that Husband, who appeared to be in good physical and mental health, had the ability to earn rental income and at least \$96,000.00 per year with his real estate company; that both parties contributed to the breakdown of the marriage; that Husband held title to approximately 70% of the marital property and \$1.25 million in non-marital assets; and, that Wife held title to approximately 30% of the marital property and \$0 in non-marital assets. Based on those findings, the court granted Wife a monetary award of \$509,056.50, or approximately 75% of the marital property.

Finally, the circuit court considered Wife's request for alimony. In so doing, the court again engaged in a thorough discussion of the requisite statutory factors. As part of that discussion, the court found that Wife was not currently self-supporting but that "over a period of two to three years it would be entirely possible for Plaintiff-Wife to secure an additional degree or certification and find suitable employment that would allow her to become wholly self-supporting." As for Husband, the court found that he derived "significant income from his trust accounts," that he had the ability to become employed based in part on the fact that he had earned approximately \$96,000.00 per year at his real estate company, and that he had the ability to earn additional income from his many rental properties.

The court then recognized its responsibility to project the parties’ present and future incomes and assess whether the parties’ standard of living would be unconscionably disparate. The court noted Wife’s limited income and purported monthly expenses of nearly \$5,000.00. The court also noted Husband’s potential to earn \$100,000.00 per year, his potential to earn supplemental rental income, and his “significant assets held in trusts.” In the end, the court awarded Wife rehabilitative alimony of \$5,000.00 per month for a period of five years.

DISCUSSION

I.

Husband first argues that the circuit court erred in its identification and valuation of the parties’ marital property. He claims that a number of the properties – namely the Condos, the Boat, the Luzerne Property, the Marital Home, the Farm, the Gaithersburg Lot, and the Cabin – were either wholly or partly non-marital because they were either acquired prior to the marriage or were purchased, at least in part, using non-marital funds. Husband also avers that the court’s valuation of several of those properties and its finding that Husband engaged in fraudulent behavior were unsupported by the evidence.

“The term ‘marital property’ refers to property acquired by one or both parties during the marriage, regardless of how the property is titled.” *Malin v. Mininberg*, 153 Md. App. 358, 427 (2003). Property acquired prior to the marriage, on the other hand, is “non-marital.” Md. Code (1984, 2012 Repl. Vol.), Family Law Article (“FL”) § 8-201(e)(3). In addition, property acquired by inheritance or gift from a third party, excluded by valid agreement, or directly traceable to any of these sources is “non-

marital.” *Id.* Generally, property that is “marital” at the time of a divorce is subject to equitable distribution, whereas property that is “non-marital” is not.

Because a court, except in limited circumstances, cannot transfer title of property, even marital property, from one party to another, inequities in how marital property is titled may be rectified *via* a monetary award. As this Court explained in *Ward v. Ward*, 52 Md. App. 336, 339-40 (1982):

The monetary award is thus an addition to and not a substitution for legal division of the property accumulated during marriage, according to title. It is “intended to compensate a spouse who holds title to less than an equitable portion of that property” What triggers operation of the statute is the claim that a *division* of the parties’ property according to its title would create an inequity which would be overcome through a monetary award.

(Citations omitted) (emphasis in original).

“When a party petitions for a monetary award, the trial court must follow a three-step procedure.” *Malin*, 153 Md. App. at 428. First, for each disputed item of property, the court must determine whether that property is marital or non-marital. FL § 8-203. Once the court determines which property is marital, it must then determine the value of all marital property. FL § 8-204. Finally, the court must decide if dividing the marital property based on title would be unfair; if so, the court may issue a monetary award to rectify any inequity. FL § 8-205.

“In determining marital and non-marital property, Maryland follows the ‘source of funds’ theory[.]” *Dave v. Steinmuller*, 157 Md. App. 653, 663 (2004). Under that theory:

when property is acquired by an expenditure of both non-marital and marital property, the property is characterized as part non-marital and part marital. Thus, a spouse contributing non-marital property is entitled to an

interest in the property in the ratio of the non-marital investment to the total non-marital and marital investment in the property. The remaining property is characterized as marital property and its value is subject to equitable distribution. Thus, the spouse who contributed non-marital funds, and the marital unit that contributed marital funds each receive a proportionate and fair return on their investment.

Harper v. Harper, 294 Md. 54, 80 (1982).

Although the party claiming a marital interest in property generally has the burden of proof as to that claim, “a party seeking to demonstrate the non-marital nature of a particular property must ‘trace the property to a non-marital source.’” *Malin*, 153 Md. App. at 428. In other words, “[a] spouse who owns non-marital property is permitted to preserve its non-marital status even if it changes in character or form during the marriage, **as long as the spouse can trace the asset acquired during marriage directly to a non-marital source.**” *Dave*, 157 Md. App. at 664 (emphasis added). That said, “[d]irectly traceable’ is not synonymous with ‘attributable.’” *Melrod v. Melrod*, 83 Md. App. 180, 187 (1990). “[An] inability to trace property acquired during the marriage *directly* to a non-marital source simply means that all property so acquired was marital property.” *Id.* (emphasis in original).

Moreover, “[p]roperty that is initially non-marital can become marital[.]” *Innerbichler v. Innerbichler*, 132 Md. App. 207, 227 (2000); *see Brodak v. Brodak*, 294 Md. 10, 26-27 (1982) (holding that a trailer park, which had been acquired by husband prior to marriage, was partly marital because income used to purchase marital portion was partly generated through the efforts of the wife, who worked at the trailer park during the marriage). For instance, “to the extent the value of non-marital property has been

increased by the utilization of marital funds, *e.g.*, mortgage payments, taxes, repairs, etc., that new or added value is, itself, marital property.” *Golden v. Golden*, 116 Md. App. 190, 203 (1997). In fact, as we explained in *Mount v. Mount*, 59 Md. App. 538, 549-50 (1984), there are numerous ways in which non-marital property can become marital property, particularly when the value of non-marital property increases in value during the marriage:

Property can produce other property in many different ways. In some instances, it may require active intervention and management by the owner or some assistance by the owner’s spouse; in other instances, non-marital property can accrete or produce income without any effort at all on the part of the owner or the owner’s spouse. In either case, all, some, or none of the income or accretion generated by or from the initial property may be used for family purposes. When one superimposes upon these variables the further varieties in type of income or accretion that can flow from property, the difficulty in fashioning any kind of reliable litmus test for judging whether and when the new property partakes the non-marital character of its progenitor becomes evident.

Generally, the circuit court’s determination as to whether disputed property is marital or non-marital, as well as its determination regarding the property’s value, are questions of fact, and our review of the court’s decisions as to those issues is governed by the clearly erroneous standard. *Malin*, 153 Md. App. at 428; *Williams v. Williams*, 71 Md. App. 22, 36 (1987). Under that standard, we must consider the evidence in a light most favorable to the prevailing party, and we defer to the judgment of the trial court regarding the credibility of witnesses. *L.W. Wolfe Enterprises, Inc. v. Maryland National Golf, L.P.*, 165 Md. App. 339, 343 (2005). In short, we do not sit “as a second trial court, reviewing all the facts to determining whether an appellant has proven his case.” *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996). “If there is any competent and material

evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous.” *Yivo Institute for Jewish Research v. Zaleski*, 386 Md. 654, 663 (2005).

Here, we are persuaded that the circuit court’s findings regarding the identification and valuation of each of the disputed properties were supported by substantial evidence and thus not clearly erroneous. Three of the properties – the Florida Condos, the Boat, and the Gaithersburg Lot – were acquired during the marriage, while one of the properties – the Marital Home – was declared marital by Husband on the parties’ Joint Statement Concerning Marital and Non-Marital Property. *Beck v. Beck*, 112 Md. App. 197, 205 (1996) (holding that information provided in the parties’ joint statement concerning marital and non-marital property may be considered as evidence). Although Husband claimed, as he does now, that all or a portion of the proceeds used to acquire those properties was non-marital, the court expressly rejected Husband’s claims as not credible and/or unsupported by appropriate documentation. Thus, Husband failed to carry his burden of showing that the funds used to purchase those assets were directly traceable to a non-marital source.

As for the Luzerne Property, which both parties admitted was purchased prior to the marriage, the circuit court found that one-half of the property was marital and one-half was non-marital. That finding was not clearly erroneous. Of the approximately twenty-two years between when Husband purchased the Luzerne Property and when the parties were divorced, the parties spent over half that time (approximately twelve years) as Husband and Wife. Importantly, the parties, as Husband and Wife, used marital funds

to pay the mortgage on the Luzerne Property, and they both expended effort in improving and maintaining the property. Thus, sufficient evidence existed from which the court could declare that the Luzerne Property was at least one-half marital.

Similarly, the circuit court's finding regarding the Cabin was not clearly erroneous. The court heard evidence establishing that the value of the Cabin in 1991 was approximately \$100,000.00, while its value at the time of the divorce was approximately \$230,000.00. The court also heard evidence that the parties made significant improvements to the Cabin during the marriage, including adding a basement. Based on these facts, we are persuaded that the court's finding that 25% of the Cabin was marital property was not clearly erroneous.

As for the Farm, the circuit court determined it to be non-marital; however, the court did find that, during the marriage, Wife increased the value of the property's oil and gas lease by \$204,000.00 as a result of her efforts in having the property resurveyed. Accordingly, the court found that that portion of the Farm was marital property. We are persuaded that the court's finding was not clearly erroneous, as it was supported by Wife's testimony.²

Finally, all of the circuit court's valuations of the disputed properties were, as shown *supra*, supported by evidence adduced at trial. That Husband presented

² Husband claims that the circuit court's determination regarding the \$204,000.00 was erroneous because the money was a one-time payment; it did not increase the value of the underlying property; and, it was no longer in existence at the time of trial. Although it is unclear from the record whether those issues were raised at trial, we note that, assuming they were, it is apparent that the court chose to believe Wife's assertions, not Husband's. Such is the purview of the circuit court.

contradictory evidence, which the court seemingly chose to ignore or find not credible, is immaterial for the purposes of this appeal. *See Williams*, 71 Md. App. at 36 (“[V]aluation is not an exact science . . . [and] the chancellor is not bound to accept the values proposed by the parties[.]”). Accordingly, the court’s findings in this regard were not clearly erroneous.

II.

Husband next argues that the circuit court erred in awarding 75% of the marital estate to Wife. Husband contends that the court “incorrectly analyzed the factors set out in [FL] § 8-205 to arrive at a monetary award.” Specifically, Husband complains that the court somehow discounted Husband’s efforts during the marriage while at the same time exaggerating Wife’s efforts, particularly as they related to the improvement of the parties’ marital property. Husband also complains that the court’s analysis of the parties’ economic circumstances was “flawed,” and that the court “blamed” him for the breakdown of the marriage without recognizing Wife’s contribution in that regard. Finally, Husband complains that the court’s “aversion” to Husband’s use of trusts during the marriage was “not supported by the evidence.”

As noted above, after a court identifies and values the parties’ marital property, it may grant a monetary award in order to rectify any inequities in how the parties’ marital property is titled. In so doing, the court is required to consider the factors set forth in FL § 8-205(b), which are:

- (1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;

- (2) the value of all property interests of each party;
- (3) the economic circumstances of each party at the time the award is to be made;
- (4) the circumstances that contributed to the estrangement of the parties;
- (5) the duration of the marriage;
- (6) the age of each party;
- (7) the physical and mental condition of each party;
- (8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;
- (9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;
- (10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and
- (11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

That said, “[a]lthough consideration of the factors is mandatory, the trial court need not ‘go through a detailed check list of the statutory factors, specifically referring to each, however beneficial such a procedure might be[.]’” *Malin*, 153 Md. App. at 429 (citations omitted). “Moreover, the ultimate decision regarding whether to grant a monetary award, and the amount of such an award, is subject to review for abuse of discretion.” *Flanagan v. Flanagan*, 181 Md. App. 492, 521 (2008). “This means that we

may not substitute our judgment for that of the fact finder, even if we might have reached a different result.” *Innerbichler*, 132 Md. App. at 230. “Indeed, the decision whether to grant a monetary award will not be overturned unless the judgment is clearly erroneous and due regard will be given to the trial judge’s opportunity to judge the credibility of witnesses.” *Malin*, 153 Md. App. at 430.

Here, we hold that the circuit court did not err in awarding approximately 75% of the marital estate to wife. The court carefully examined all the factors set forth in FL § 8-205(b) and, based on the evidence, came to the conclusion that Wife should be awarded more than an equal share of the marital assets. *See id.* (“[O]ur statute requires ‘equitable’ division of marital property, not ‘equal’ division.”) (Citations and quotations omitted). There is no evidence in the record to support Husband’s contention that the court’s findings or conclusions were clearly erroneous, nor do we find any evidence that the court abused its discretion in reaching its ultimate decision regarding a monetary award. In short, the court did not, as Husband contends, “incorrectly analyze” the requisite statutory factors; rather, the court analyzed the factors in a manner that conflicted with Husband’s interpretation of the evidence. Finally, and most importantly, the circuit court did what FL § 8-205 required it to do when it carefully valued Husband’s substantial non-marital assets and economic circumstances and awarded Wife a greater share of marital property based at least in part on what the court believed was the large disparity in the parties wealth. *Brewer v. Brewer*, 156 Md. App. 77, 112 (2004).

III.

Husband next argues that the circuit court abused its discretion in transferring title to the Marital Home to Wife. Husband claims that the Marital Home constituted a pre-marital asset because his interest was acquired prior to the marriage and was held by the parties as tenants in common. He claims, therefore, that Wife had the burden of establishing that the property was, in fact, marital property, which she failed to do.

We disagree with Husband's assertions. As previously discussed, Husband admitted at trial that the Marital Home was marital property. Moreover, any allegations made by Husband that non-marital funds were used to purchase the Marital Home were expressly rejected by the circuit court. Accordingly, Husband's claim of error is without merit.

IV.

Husband last argues that the circuit court erred in awarding Wife \$5,000.00 per month in rehabilitative alimony over five years. Husband contends that Wife did not present any testimony or evidence of how she plans to become self-supporting. Husband also questions the court's finding that Wife could be self-supporting in two to three years and claims that the court offered no explanation for the additional two years of alimony support.

“A trial court has broad discretion in making an award of alimony, and a decision whether to award it will not be disturbed unless the court abused its discretion.” *Ware v. Ware*, 131 Md. App. 207, 228-29 (2000). In other words, “an appellate court will not

disturb an alimony award unless the trial court has arbitrarily exercised its discretion or its judgment was otherwise wrong.” *Doser v. Doser*, 106 Md. App. 329, 351-52 (1995).

FL § 11-106(a) provides that the trial court has the discretion to make an award of alimony to either party and to determine the amount of and the period for such an award.

Id. When making this determination, the court must consider the following factors, as set forth in FL § 11-106(b):

- (1) the ability of the party seeking alimony to be wholly or partly self-supporting;
- (2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
- (3) the standard of living that the parties established during their marriage;
- (4) the duration of the marriage;
- (5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
- (6) the circumstances that contributed to the estrangement of the parties;
- (7) the age of each party;
- (8) the physical and mental condition of each party;
- (9) the ability of the party from whom alimony is sought to meet that party’s needs while meeting the needs of the party seeking alimony;
- (10) any agreement between the parties;
- (11) the financial needs and financial resources of each party, including:
 - (i) all income and assets, including property that does not produce income;
 - (ii) any award made under §§ 8-205 and 8-208 of this article;

(iii) the nature and amount of the financial obligations of each party;
and

(iv) the right of each party to receive retirement benefits; and

(12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health-General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

When alimony is requested, if the trial court makes the determination that an award of alimony is warranted, then it must make a determination of whether the circumstances warrant an award of indefinite alimony. FL § 11-106(c) provides that the court may only award alimony for an indefinite period under the following two sets of circumstances: (1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress towards becoming self-supporting; or (2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate. *Id.*

Although Wife does have a current diagnosis of Stage 1 breast cancer, which must be considered under the first factor, she presented testimony that she will be able to work full-time in the future, thus resulting in eventual self-sufficiency. Since Wife presented this evidence, it logically follows that she intends to make substantial progress towards becoming self-supporting.

Pursuant to the second factor, the circuit court calculated the parties' projected incomes to determine whether or not the parties' standard of living will be unconscionably disparate. An appellate court will uphold a trial court's determination of

potential income as long as the underlying factual findings are not clearly wrong, and “the amount calculated is realistic” and not “so unreasonably high or low as to amount to an abuse of discretion.” *Sieglein v. Schmidt*, 224 Md. App. 222, 249 (2015) (citing *Reuter v. Reuter*, 102 Md. App. 212, 223 (1994)).

After the circuit court determined that Wife did not meet the requisite qualifications for an award of indefinite alimony, the court correctly turned to the question of rehabilitative alimony. Limiting alimony to a definite term “provide[s] each party with an incentive to become fully self-supporting.” *Jensen v. Jensen*, 103 Md. App. 678, 692 (1995). In other words, alimony should serve as “a ‘bridge’ to self-sufficiency.” *Id.* “[A]n award of temporary alimony must be grounded in a finding that the recipient spouse is not self-supporting and needs training, education, or other steps to help that spouse achieve financial self-reliance.” *Karmand v. Karmand*, 145 Md. App. 317, 328 (2002). That factor, which is codified in FL § 11-106(b)(2), “goes to the heart of Maryland’s alimony scheme, which is based in rehabilitation.” *Long v. Long*, 129 Md. App. 554, 582 (2000). Based upon the prior standards, a court cannot grant rehabilitative alimony for a specific duration without the requisite findings and predictions.

Here, the circuit court, as it did when awarding Wife a monetary award, engaged in a thorough discussion of the requisite statutory factors and awarded Wife a reasonable sum based on the evidence presented at trial. Although Wife did not provide the court with a definite time-table regarding her ability to become self-supporting, the court determined that, based in part on Wife’s cancer diagnosis and her need to “bring her credentials up to date,” it was “possible” for Wife to become self-supporting in “two to

three years.” Given that projection, and given the circumstances of the parties as discussed by the court, it was not unreasonable for the court to extrapolate that after two to three years of education and training, she would need an additional two years of working in that field to become self-supporting. Accordingly, we hold that the circuit court’s determination of alimony was neither clearly erroneous nor an abuse of discretion.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**