Circuit Court for Baltimore City
Case No. 24-D-19-001896

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0062

September Term, 2020

LEON BLAIR, SR.

v.

JEANETTE BLAIR

Reed,
Wells,
Zarnoch, Robert. A
(Senior Judge, Specially Assigned)

JJ.

Opinion by Reed, J.

Filed: February 10, 2021

On May 30, 2019 Jeanette Blair ("Appellee") filed a complaint for Absolute Divorce. Leon Blair, Sr. ("Appellant") filed his answer to the complaint as well as an Answer to Defendant/Counter-Plaintiff's Counter-Complaint for Divorce, Custody, and Other Relief. Appellee filed an Amended Complaint for Absolute Divorce or in the Alternative Limited Divorce on October 2, 2019. Appellant filed an answer to the Amended Complaint on November 6, 2019. Upon failing to reach a resolution through settlement conference, the case was set for trial beginning February 18, 2020.

After stipulating to an agreement to the terms of custody and child support, both parties presented their case for the remaining issues: distribution of marital property and alimony. On February 19, 2020, the trial court granted the parties an absolute divorce and issued an order which included the following: 1) Appellee awarded use and enjoyment of the marital home for a period of five years; 2) finding that Appellant dissipated $22,737.93 of marital funds; 3) as a result of Appellant's dissipation, Appellee awarded $11,368.00 payable over the course of three years; and 4) Appellee awarded rehabilitative alimony in the amount of $557.00 per month for a period of three years. It is from this decision that Appellant files this timely appeal. In doing so, Appellant presents three question for our review, which we have rephased for clarity:[1]

[1] Appellant presents the following questions

1. Was the lower court's decision to award Appellee use and possession of the family home arbitrary and clearly erroneous?

2. Was the lower court's finding that Appellant had dissipated $22,737.93 of marital assets clearly erroneous?

I. Did the trial court err in awarding Appellee use and possession of the family home for a period of five years?

II. Did the trial court err in finding Appellant dissipated $22,737.93 of marital assets?

III. Did the trial court err in awarding Appellee rehabilitative alimony?

For the foregoing reasons, we hold the award of use and possession was in error and answer the other two questions in the negative; we affirm in part, vacate and remand in part.

FACTUAL & PROCEDURAL BACKGROUND

A. The Marriage

The parties were married on December 23, 2001 in Baltimore, Maryland. The parties had two children during their marriage; one born in 2003 and the other in 2006. At the beginning of the marriage, Appellant was on active duty in the United States Navy. While Appellant was on active duty, Appellee was employed as a cashier at Eckerd drug store until the birth of the parties' first son in June 2003. In May 2006, the parties purchased the family home located at 5004 East Oliver Street, Baltimore, MD 21205 as their main residence. The parties also purchased a vacation property in 2017 located at 3247 Vineyard Road, Falling Waters, West Virginia 25419 that was primarily utilized during the summer months for personal enjoyment. Appellant was medically discharged from the Navy in December 2006 after being diagnosed with cancer and undergoing several medical procedures that impaired his ability to work. Appellant is disabled and receives benefits

3. Did the lower court abuse its discretion when it awarded alimony to Appellee?

from the Veterans Administration ("VA") each month in the amount of $3,100. Appellee alleges that she cared for Appellant throughout his illness and acted as the primary caregiver for the parties' two minor children.

Appellant has been the primary source of financial support for the parties and their children since 2006. Appellee's highest level of education is a high school diploma and her last employment was allegedly at a Denny's restaurant in 2006. Appellant's benefits from the VA served as the sole source of income for the family since 2006. All the bills for the family were paid through Appellant's checking and savings account with M&T Bank. Appellant alleged that the parties maintained separate credit card accounts. Both parties alleged that the other had infidelities and do not dispute that the parties separated at least once in 2009 and reconciled. On February 9, 2019, the parties separated for the final time. Both parties alleged that, after an argument, the other exhibited aggressive behavior, Appellant packed his belongings, and vacated the family home by driving away in the family's 2007 Nissan Murano. Appellee has remained in the family house with the parties' minor children.

The parties maintained joint ownership of the M&T checking and savings account prior to the initial separation in 2009. After 2009, the parties did not maintain a joint account. Specifically, Appellee alleged that Appellant prevented her from accessing the family bank accounts without cause. Appellant, on the contrary, alleged that Appellee was engaged in fraudulent use of the account and accordingly opened a new one. After the separation in February 2019, Appellant took the family's 2007 Nissan Murano, removed Appellee from the insurance policy, and then traded in the vehicle for $1,200. The trade in

value of the 2007 Nissan Murano was applied to the purchase of a 2019 Hyundai Tucson for between $30,000-$31,000. Appellee claimed that all these changes with the bank accounts, car insurance, and family vehicle were done without her knowledge.

B. Divorce Proceedings

On May 30, 2019 Appellee filed a *pro se* complaint for Absolute Divorce. Appellant filed his Answer to Complaint for Absolute Divorce, and Other Relief as well as an Answer to Defendant/Counter-Plaintiff's Counter-Complaint for Divorce, Custody, and Other Relief on July 24, 2019. With assistance of counsel, Appellee filed an Amended Complaint for Absolute Divorce or in the Alternative Limited Divorce on October 2, 2019. Appellant filed an answer to the Amended Complaint on November 6, 2019. Upon failing to reach a resolution through settlement conference, the case was set for trial beginning February 18, 2020.

After stipulating to an agreement to the terms of custody and child support, both parties presented their case for the remaining issues: distribution of marital property and alimony. Appellee testified that she has lived in the family home located at 5004 East Oliver Street since August 2003. Given that the home is close to family, within her child's school zone, and her financial inability to relocate, Appellee requested to continue living in the family home. Appellee also testified that she had been trying to find work but was unsuccessful. Appellee further testified that scoliosis of the spine and dislocated discs in her back prevented her from working but provided no evidence to corroborate such diagnosis. Appellee also testified to the bank accounts through M&T Bank that she accessed throughout the marriage until separating from Appellant in February 2019.

Specifically, Appellee testified that the parties maintained joint checking account number 6633, ("account 6633") until the first brief separation in 2009. The parties' also shared access to savings account number 2068 ("the savings account"). After the parties later reconciled in 2009, Appellee discovered that Appellant removed her name from account 6633 but she could still access the account with a debit card. But after the parties' argument and separation in 2019, Appellee no longer had access to account 6633 because Appellant closed the account. Appellee claimed she also lost access to the savings account in February 2019. Appellee testified that she made use of credit cards prior to the separation for family purchases such as groceries and toiletries. After the separation, Appellee asserted that her credit score began to suffer because Appellant did not make payments on the balance and she used credit cards "basically to just sustain" herself.

Appellee further testifies that the parties owned a 2007 Nissan Murano that was purchased in 2011 and used every day for appointments, errands, and transporting the kids to school. Both parties were listed as authorized users of the vehicle on the insurance policy through Geico. Appellee testified that she has not had access to the family vehicle since Appellant left the family home in February 2019. Further, Appellee learned that she had been removed from the insurance policy after inquiring about adding a vehicle to the policy. Appellee requested that the vehicle be returned to her possession or that she be "reimbursed for the value of the vehicle." In addition to grant of an absolute divorce, remaining in the family home, and receiving the value of the vehicle, Appellee also requested to sell the vacation property and equally divide the proceeds, that personal property taken from the family safe be returned, to retain all possessions and property in

the family home, a name change, and rehabilitative alimony based on her financial needs[2].

Appellant testified that in December 2006, the VA classified him as 80 percent disabled, and he medically retired from the Navy. Due to his condition worsening, Appellant testified that as of these proceedings he was classified as 100 percent disabled and received $3,100 per month in disability benefits. When questioned on cross examination about working at Walmart in 2011 despite being classified disabled, Appellant testified that he was "legally allowed" to work but not medically cleared to work based on his disabilities. Appellant maintained that he continued to cover fees, bills, and expenditures associated with the parties' children and family home as well as the vacation property.

Appellant testified that he closed account 6623 and stopped making payments on Appellee's credit cards because she was rapidly accumulating credit card charges and attempted to remove $2,000 from account 6623 to pay the credit card balance. Appellant further testified that this behavior was alarming because the most he ever paid on Appellee's credit card was $500. Prior to closing the account, Appellant testified that Appellee withdrew varying amounts between October 2018 and December 2018, without

[2] Based on the financial statement Appellee prepared in filing her complaint for absolute divorce, she asserted that she will be responsible for the following bills:

> "The homeowner's insurance, the ground rent, the gas and electric, the telephone, repairs that the corporation does not cover, lawn care, the replacement of the furnishings, painting because you have to paint your house a certain color in the neighborhood that they have to agree to… carpet cleanings and we also – there's a pool located at our residence."

Appellant's knowledge, that left the account overdrawn. Appellant testified that to replace account 6623 he opened checking account number 8623 ("account 8623"). Account 6623, which Appellee had access to prior to the separation, had a beginning balance of $2,521.19 in March 2019. The ending balance for the same month was zero dollars and Appellant believed the account was also closed that month. Account 8623 had two deposits on February 12, 2019 of $3,545.67 and $2,321.19. From Appellant's bank statement period of December 13, 2019 to January 10, 2020 the beginning balance was $1,038.01 and the ending balance was zero dollars. Appellant testified that Appellee did not have access to account 8623. With regards to the savings account, Appellant testified that there was "an allotment from [his] checking account" of $1,000 to the savings account so that he could save $1,000 each month.

When asked about the 2007 Nissan Murano on cross examination, Appellant testified that the vehicle was marital property which he traded in for $1,200 after separating from Appellee in February 2019. Appellant did not inform Appellee of the trade-in because they were separated. Appellant further testified that he purchased a 2019 Hyundai Tucson, which cost between $30,000 and $31,000. Appellant denied taking Appellant's personal property from the family safe and requested use and possession of the family home and to evenly divide proceeds from the sale of the vacation property.

C. Trial Court's Decision

On February 19, 2020, the trial court granted the parties an absolute divorce and issued an order which included the following: 1) Appellee awarded use and enjoyment of the marital home for a period of five years; 2) finding that Appellant dissipated

$22,737.93 of marital funds; 3) as a result of Appellant's dissipation, Appellee awarded $11, 368.00 payable over the course of three years; and 4) Appellee awarded rehabilitative alimony in the amount of $557.00 per month for a period of three years.

The trial court determined that the parties' lived separately, without separation or sexual intercourse, since February 9, 2019 and were entitled to an absolute divorce under Md. Code Ann., Fam. Law §7-103(4). To determine distribution of the marital property, the trial court utilized a three step analysis to determine 1) what is and what is not marital property; 2) valuation of marital property and; 3) consideration of a monetary award. The marital home valued at $20,000, the vacation home valued at $20,000, the 2007 Nissan Murano, valued at $1,200 and bank accounts 6633, 2068, and 8623 were all determined to be marital property. In evaluating the value of the three bank accounts, the trial court found that Appellee established a *prima facie* showing of dissipation. Specifically, Appellee established that Appellant removed Appellee's access to marital funds held in account 6633 and the savings account without her knowledge. The trial court did not find Appellant's testimony that fraudulent activity required closing the account credible. After reviewing all the transfers from the savings account to account 8623, the trial court found that Appellant "willfully and deliberately dissipated the marital bank accounts to prevent Appellee from having access to the funds.[3]" Thus, Appellee was awarded a monetary

[3] The trial court determined that Appellant dissipated $22,737.93 by adding $131.74 from the savings account; $2521.19 from account 6633; and $20,085 from account 8623. Because account 8623 currently has an ending balance of zero dollars, the trial court reasoned that Appellant likely has a "fourth undisclosed M&T bank account to which he has moved the money."

award of half the dissipated funds for a total of $11,368.97.

Then, to resolve the inequality in how the property is titled, the trial court awarded Appellee use and enjoyment of the marital home for five years because "the minor children attend school nearby [and] it is in their best interest to remain in the marital home." Since the parties mutually wanted to sell the vacation property and split the proceeds evenly, the trial court included such agreement in the order. Since the 2007 Nissan Murano was sold without Appellee's permission or knowledge, it was no longer available for equitable distribution and the trial court valued it at the trade-in value Appellant testified to of $1,200. Accordingly, the trial court awarded Appellee half of that value.

The trial court reviewed the several factors in awarding alimony including the needs and resources of each party, the duration of the marriage, the time necessary for Appellee to gain sufficient education and training to be obtain suitable employment, and the ability of Appellant to support his needs as well as Appellee's. Upon determining that Appellant could meet his own needs while meeting the needs of Appellee and that the monthly expenses for the home totaled $557.00 per month, the trial court awarded that amount to Appellee in alimony for a three-year period.

STANDARD OF REVIEW

When granting appellate review, this Court "will not set aside the judgement of the trial court on the evidence unless clearly erroneous [,] and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c). Accordingly, we "may not substitute our judgement for that of the fact finder, even if we might have reached a different result, absent an abuse of discretion." *Nouri v. Dadgar*, 245

Md. App. 324, 342 (2020) (quoting *Gordon v. Gordon*, 174 Md. App. 583, 626 (2007)). Appellate courts grant "great deference to the findings and judgements of trial judges, sitting in their equitable capacity when conducting divorce proceedings" under an abuse of discretion standard. *Karmand v. Karmand*, 145 Md. App. 317, 326 (2002) (quoting *Tracey v. Tracey*, 328 Md. 380, 385 (1992)).

DISCUSSION

A. Parties' Contentions

Appellant contends that the trial court's decision in awarding Appellee use and possession of the family home for a period of five years is arbitrary and clearly erroneous. Citing to Md. Code Ann., Fam. Law 8-210(a)(1)[4], Appellant argues that if Appellee is entitled to any use and possession of the family home, it cannot exceed a period of three years after the date of the parties' divorce. Thus, Appellant contends the trial court lacked the requisite authority to grant an award to Appellee beyond the three-year time frame.

Next, Appellant argues that the trial court's finding that Appellant dissipated marital assets in the amount of $22,737.93 is clearly erroneous. Specifically, Appellant asserts that the trial court was in error when it found dissipation regarding the replacement of account 6623 with account 8623, the transfer of funds from the savings account to checking account 8623, and the trade-in of the 2007 Nissan Murano. Appellant maintains that he replaced account 6623 with account 8623 due to concerns that Appellee was using

[4] Md. Code Ann., Fam. Law 8-210(a)(1) provides "In any order or decree, or any modification of an order or decree, a provision that concerns the family home or family use personal property shall terminate no later than 3 years after the date on which the court grants an annulment or a limited or absolute divorce."

the funds in account 6623 fraudulently. Thus, Appellant argues, these were not two separate checking accounts but only one used to pay the family bills. Additionally, Appellee maintains that transfer of funds from the savings account to account 8623 was done to ensure account 8623 continued covering "customary monthly expenditures." Contrary to the finding of the trial court, Appellant argues this was not an act of concealment and that the trial court failed to examine the expenditures to even make a finding of dissipation. Regarding the trade-in of the 2007 Nissan Murano, Appellant concedes that the trade-in amount of $1,200 was applied to the purchase of a 2019 Hyundai Tucson, which is marital property. However, Appellant argues both parties failed to include the vehicle on the Joint Statement of Marital and Non-Marital property, and that his act of trading it in for another vehicle was not dissipation.

Lastly, Appellant contends the trial court abused its discretion in awarding alimony to Appellee. Specifically, Appellant asserts that the trial court's finding that he "can meet his own needs while meeting the needs of [Appellee]…" stemmed from two erroneous findings: 1) that Appellant saves $1,000 per month and; 2) the finding of dissipation. Although the trial court found that Appellant's checking account automatically transfers $1,000 per month to his savings account, Appellant contends that he has not saved any funds and, to the contrary, has "been running a deficit each month" due to constantly transferring the money right back to his checking to cover family expenditures. Further, Appellant asserts that the trial court based its award of alimony on the court's finding of dissipation which Appellant claims is to punish him and constitutes an improper basis for awarding alimony.

Appellee responds that the trial court's decision to award Appellee use and possession of the family home for a period of five years was neither clearly erroneous nor an abuse of discretion as it was congruent with the best interest of the parties' minor children under Md. Code Ann., Fam. Law §8-206. Specifically, Appellee points to several cases including this Court's analysis of the legislative intent behind Md. Code Ann., Fam. Law §8-201 - §8-210 in *John O. v. Jane O.*, 90 Md. App. 406, 416-17 (1992):

> If the Legislature had intended to limit the use and possession order to three years in all cases – as it effectively did in an absolute divorce following a limited divorce – it would have specifically set that limitation in §8-210(a). Section 8-210(a) does not contain such limitation and we will not interpret the statute in this fashion.

Moreover, Appellee asserts that when the trial court properly considered all relevant factors in awarding her use and possession of the family home, it "explicitly found a period of five years to be in the children's best interest, which is the main purpose for a use and possession award…". Appellee maintains that this decision was well within the trial court's broad discretion of "exercising its equitable powers."

Next, Appellee contends the trial court's finding that Appellant dissipated $22,737.93 of marital assets was not in error because Appellee made a *prima facie* case for dissipation of marital assets. Specifically, Appellee claims that Appellant transferred funds from account 6623 and the savings account into another checking account that she had no knowledge of or access to. Further, Appellee argues Appellant failed to prove his unilateral use of the funds in the accounts was appropriate after the trial court properly reviewed and considered Appellant's expenditures. Subsequently, Appellee contends that Appellant also

traded in the 2007 Nissan Murano, which is marital property, without her knowledge and removed her from the car insurance policy "leaving her unknowingly without car insurance and without a car." Thus, Appellee contends that the trial court "exercised appropriate judgement" in finding Appellant dissipated marital assets.

Lastly, Appellee maintains that the trial court's award of rehabilitative alimony was neither clearly erroneous nor an arbitrary abuse of discretion. Considering that Appellee was unemployed, had been unemployed for several years, and needed time to reenter the workforce, Appellee argues the trial court accounted for all relevant statutory factors and ordered a proper temporary award. Additionally, Appellee argues the trial court properly considered Appellant's income and expenditures prior to setting the alimony award at the amount he had already been paying to cover expenses of the marital home since the separation. Furthermore, Appellee asserts the trial court did not err in finding Appellant saved $1,000 per month when considering his ability to pay alimony.

Specifically, Appellee argues that Appellant's claim of transferring most of his savings back into his checking account reflected transactions prior to the parties' separation in February 2019 and thus are not "the most relevant transactions to consider" in determining Appellant's ability to pay alimony. Further, Appellee contends that Appellant withdrew all funds from account 6623 and deposited them into an account that Appellee had no knowledge of, and Appellant could not justify how any of the debits to the account were to maintain the family home or expenditures. Appellee argues that even if the trial court's finding that Appellant saved $1,000 per month is in error, such error is harmless because the court relied on a "thorough analysis of all the statutory factors required for an

alimony award" and the amount set is what Appellant had been paying since the separation in February 2019 to maintain the marital home.

Moreover, Appellee disputes that the alimony is punitive because the trial court may "consider the facts warranting a monetary award in conjunction with alimony" because the two are "significantly interrelated." Appellee maintains that limiting alimony payments to a period of three years was reasonable and well within the broad discretion of the trial court to ensure Appellee, the dependent spouse, could become "self-supporting."

B. Analysis

Use and Possession of Family Home

Under appellate review, this Court will not disturb the decision of the trial court to grant use and possession of the family home unless it is shown that the decision was made in an arbitrary manner or was clearly erroneous. *St. Cyr. v. St. Cyr*, 228 Md. App. 163, 199 (2016). Appellant contends that the trial court lacked the requisite authority to grant Appellee use and possession of the family home under Md. Code Ann., Fam. Law. §8-210(a)(1) which specifies:

> "[A]ny order or decree…that concerns the family home or family use personal property shall terminate no later than 3 years after the date on which the court grants an annulment or a limited or absolute divorce."

We agree. When determining if a party is entitled to use and possession of the family home, the trial court shall exercise its powers "to enable any child of the family to continue to live in the environment and community that are familiar to the child; and to provide for the continued occupancy of the family home…by a party with custody of a child who has

a need to live in the house." Md. Code Ann., Fam. Law §8-206. However, the statute provides no exceptions that grant a trial court the authority to award use and possession beyond the statutory maximum outlined by §8-210(a)(1).

In *Kelly v. Kelly*, we reviewed a trial court's judgment that awarded Appellee, Mr. Kelly, with use and possession of the family home for the statutory maximum of three years after divorce, or until May 16, 2005. 153 Md. App. 260, 269 (2003). Appellant, Mrs. Kelly, argued that when the parties' son turned 18 on March 19, 2004, there would be no minors in the house and thus the trial court's decision to grant use and possession beyond that date was impermissible. *Kelly*, 153 Md. App. at 269. We held that use and possession of the family home should extend until the son graduated from high school in June 2004; after his 18th birthday yet still within the statutory maximum of three years. *Id*.

Distinct from *Kelly*, in the present case the trial court granted use and possession of the family home for five years after divorce to ensure the parties' son graduated from the local school district he was familiar with. But as demonstrated by this Court's holding in *Kelly*, use and possession may be extended until a child graduates from school *if* it is within the statutory maximum. 153 Md. App. at 269. Thus, we hold the trial court's decision to grant Appellee use and possession of the family home for five years was clearly erroneous.

Finding of Dissipation of Marital Assets

For a trial court to find a monetary award is warranted and to then determine the amount, it's "judgement regarding dissipation is a factual one and, therefore" it is reviewed under the clearly erroneous standard. *Omayaka v. Omayaka*, 417 Md. 643, 652 (2011). "If there is any competent evidence to support the factual findings below, those holdings

cannot be held to be clearly erroneous." *Omayaka*, 417 Md. at 652. "[D]issipation of marital property can be found 'where one spouse uses marital property for his or her own benefit for a purpose unrelated to the marriage at a time where the marriage is undergoing an irreconcilable breakdown.'" *Heger v. Heger*, 184 Md. App. 83, 97 (2009) (quoting *Karmand v. Karmand*, 145 Md. App. 317, 345 (2002)).

After reviewing the evidence in this case, the record reflects that there was competent evidence to support the trial court's finding of dissipation by Appellant. In conducting its three-step analysis to determine equitable distribution of the parties' marital property, the trial court properly identified several instances of dissipation by Appellant, supported through the testimony and evidence presented at trial. Appellant did not dispute that account 6623 and the savings account contained marital funds. Further, the trial court determined that Appellant "received $2,521.19 from closing out [account 6623], but he did not testify as to what he did with these funds" and he "slowly drained [the parties'] savings account" when the marriage was in the midst of an irreconcilable breakdown. From the separation in February 2019 to December 2019, Appellant made a total of 11 transfers from the savings account to account 8623 totaling $20,085.00. Given the evidence, this Court holds the trial court's finding that Appellant dissipated marital funds in the amount of $22,737.93 was not clearly erroneous.

Alimony Award

When making the decision to grant alimony, the trial court is "provid[ing] an opportunity for the recipient spouse to become self-supporting." *St. Cyr. v. St. Cyr*, 228 Md. App. 163, 185 (2016) (quoting *Tracey v. Tracey*, 328 Md. 380, 391 (1992)). The trial

court must consider several factors when determining the amount and period of an alimony award. Md. Code Ann., Fam. Law. §11-106. Appellee asserts that the trial court "analyzed each factor in detail while considering the evidence that was presented at trial when making a determination about alimony." We agree.

The trial court determined that despite Appellee's testimony on being absent from the workforce since 2006 and managing some health concerns with her spine, she "has the potential" to work after gaining footing in the workforce after such a long period without working. §11-106(b)(1). Appellee testified that she would need time to find employment, but the trial court noted that she did not state a need for further education or training to gain employment. §11-106(b)(2). Appellee's testimony that the parties lived a "very comfortable" lifestyle, being able to visit the vacation property and dine out, was credible evidence for the trial court to determine the parties' standard of living during the marriage. §11-106(b)(3). "The parties' were married for 18 years." §11-106(b)(4).

Additionally, the trial court determined that both parties' agreed Appellant was the primary financial contributor to the family while Appellee primarily took care of the home, children, and Appellant during his illness despite his unpersuasive testimony disputing such. §11-106(b)(5) The trial court reviewed testimony by both parties alleging the other committed infidelity and caused the deterioration of the marriage, as well as how the parties separated following the argument on February 9, 2020. §11-106(b)(6). Upon considering that Appellant receives $3,100.00 per month from the VA, transfers $1,000 per month to his savings, and dissipated over $20,000.00 in marital funds, the trial court found Appellant could meet his own needs while meeting the needs of Appellee. §11-106(b)(9). The parties

had no agreement about alimony. §11-106(b)(10). Both parties presented evidence on fees associated with maintenance of the family home. §11-106(b)(11).

After considering these factors, the trial court awarded Appellee alimony based on the monthly expenses for the family home totaling $557.00 per month for a period of three years[5]. The trial court did not consider the finding of dissipation as Appellant argues. Rather, the trial court considered the monetary award that was granted as a result of the dissipation, which is well within the discretion and duty of the trial court when granting alimony. We hold that this judgment by the trial court was not in error.

CONCLUSION

The trial court's decision to award use and possession of the family home to Appellee for a period of five years was clearly erroneous. The purpose of granting use and possession of the family home is to serve the best interests of the child. However, the award of use and possession is limited to the three-year statutory maximum and the trial court can only extend possession within this limit. The trial court's decision finding that Appellant dissipated marital funds was a factual finding supported by competent evidence and thus was not clearly erroneous. Finally, the trial court properly considered all the factors under Md. Code Ann., Fam. Law §11-106 in determining to grant Appellee an award of alimony. Moreover, the alimony award of $557.00 to cover fees associated with the family home was already being paid by Appellant and thus it was not an abuse of discretion or clearly

[5] "The monthly expenses for the home...are $490.00 for the ground rent, $42.00 per month for the maintenance fee, ad $25.00 per month for the home insurance, totaling $557.00."

erroneous for the trial court to find Appellant was financially able to continue making that payment while meeting his own needs.

Accordingly, we affirm in part, vacate in part and remand the decision of the trial court.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY WITH REGARD TO USE AND POSSESSION VACATED; JUDGEMENT OTHERWISE AFFIRMED. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. APPELLANT TO PAY TWO-THIRDS OF COST AND APPELLEE TO PAY ONE-THIRD OF COSTS.