

Circuit Court for Baltimore County  
Case No.: C-03-FM-21-003345

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 864

September Term, 2023

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JULIE CRISWELL

v.

MICHAEL CRISWELL

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Graeff,  
Berger,  
Arthur,

JJ.

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PER CURIAM

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Filed: May 17, 2024

\*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Julie Criswell (“Wife”), appellant, and Michael Criswell (“Husband”), appellee, were married in October 2004 and later had two children together. They separated in January 2021. In July of that same year, Wife sought an absolute divorce from Husband in the Circuit Court for Baltimore County. The court held a two-day trial in February 2023 and entered a judgment of absolute divorce on June 23. Wife appealed, challenging three portions of that judgment.

Wife first contends that the trial court erred when it granted her use and possession of the family home and required Husband to bear financial responsibility for the home until it could be sold, but, in any event, not longer than four months. A court evaluating a claim for use and possession of the family home must consider:

- (1) the best interests of any child; (2) the interest of each party in continuing (i) to use the family home or any part of it as a dwelling place; or (ii) to occupy or use the family home or any part of it for the production of income; and (3) any hardship imposed on the party whose interest in the family home is infringed by a use and possession order.

*St. Cyr v. St. Cyr*, 228 Md. App. 163, 199 (2016) (cleaned up) (quoting Md. Code Ann., Family Law § 8-208(b)). The court’s discretion “in awarding possession and use of a family home will not be disturbed on appeal in the absence of a showing that it was exercised in an arbitrary manner or a showing that [the court’s] judgment was clearly erroneous.” *Court v. Court*, 67 Md. App. 676, 684 (1986).

The circuit court’s opinion here included a thorough analysis of these statutory factors, and Wife does not allege any specific error in that analysis. Instead, she argues that she will suffer hardship if she is not awarded use and possession of the home for a longer period. To be sure, the record reflects that Wife has resided in the home continuously from

the purchase of the house, through the parties’ separation, to the present, and the circuit court found that she and the minor children have “an interest in maintaining a level of consistency . . . during this difficult time.” The record also reflects, however, that Husband is not able to financially afford the mortgage on the family home, on top of rent or a mortgage on a separate property of his own, and his child support obligations. The court struck a reasonable balance between, on the one hand, the best interests of the children and Wife’s interest in using the home as her dwelling, and, on the other hand, the hardship that would be imposed on Husband, as the party with financial responsibility for the home. Nothing in its ruling on this issue can be described as an abuse of judicial discretion. *See Bussell v. Bussell*, 194 Md. App. 137, 159 (2010).

Wife next contends that the trial court erred in denying her request for arrearages. According to her, Husband did not pay any of the child support required by the *pendente lite* order between January 2022 and September 2022. At trial, Husband produced statements showing he had made all the required payments during that period directly to Wife. She produced no contrary evidence. The circuit court expressly concluded that Wife’s testimony on the issue was not credible. We defer to a trial court’s determinations of credibility, as it has “the opportunity to gauge and observe the witnesses’ behavior and testimony during the [hearing].” *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001) (cleaned up). And nothing in the record suggests the court’s factual finding on Wife’s credibility was clearly erroneous. *See id.* Accordingly, it did not err in denying her request for arrearages.

Finally, Wife contends that the trial court erred in its division of the parties' retirement accounts. She asserts that the value of one of the accounts was higher than the court found it to be. But the only evidence at trial on the value of these accounts was offered by Husband, without objection or contradiction from Wife. Based on that evidence, the court divided the retirement accounts equally between the parties. Nothing in the record suggests that the court's valuation was incorrect. Consequently, it did not err or abuse its discretion in entering the judgment of absolute divorce.

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