Circuit Court for Anne Arundel County
Case No.: C-02-FM-20-000417

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 978

September Term, 2021

KRYSTAL GAGLIARDI

v.

MATTHEW GAGLIARDI

Fader, C.J.,
Graeff,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: March 3, 2022

The parties to this appeal, appellant, Krystal Gagliardi ("Mother"), and appellee, Matthew Gagliardi ("Father"), appeared before the Circuit Court for Anne Arundel County to litigate issues related to the dissolution of their marriage, including grounds for divorce, child custody, and other matters. Following a multi-day trial, the court entered a judgment that was contrary to Mother's interests and she has noted this appeal from the court's denial of her motion to alter or amend the court's judgment of absolute divorce and award of child custody. Mother presents several assertions of error by the trial court:[1]

I. the court erred in granting Father an absolute divorce from Mother on the grounds of adultery.
II. the court erred in awarding the parties shared physical custody and Father sole legal custody.
III. the court erred in denying Mother's request for an *in camera* interview of the minor children.
IV. the court erred in denying Mother use and possession of the marital home and granting Father use and possession of the parties' Odenton, Maryland property.
V. the court erred in denying Mother's request for a monetary award.

[1] Mother presents the following issues in her brief:

1. The trial court erred in granting Appellee an absolute divorce from Appellant on the grounds of adultery despite evidence of condonation and cruelty.
2. The trial court erred and abused its discretion by awarding Appellee sole legal custody, awarding the parties shared physical custody on a 2-2-5-5 exchange schedule, and in denying Appellant's request for *in camera* children interview contrary to the best interests of the child standard.
3. The trial court erred and abused its discretion in denying Appellant use and possession of the Marital Home and by granting Appellee use and possession of the Odenton Property without Appellee having pled or requested the same.
4. The trial court erred and abused its discretion by denying Appellant's request for a monetary award despite substantial post-separation contributions made by Appellant, marital financial inequities, and dissipation of marital assets by Appellee.

Finding neither error nor abuse of discretion, we shall affirm the judgment of the circuit court in all respects.

BACKGROUND

Mother and Father were married in 2006 and have three minor children who, at the time of trial, were ages 12, 10 and 7. In November 2019, Father suspected that Mother was having an affair. In January 2020, Father received a telephone call from Mother's paramour's ex-wife stating that Mother was having an affair with her ex-husband. Father thereafter filed a complaint for divorce on the grounds of adultery. Mother filed a counter complaint for limited divorce on the grounds of cruelty of treatment and voluntary separation.

The circuit court held a four-day trial in which it heard extensive testimony from Mother, Father, and other witnesses. Mother admitted committing adultery but asserted that Father made multiple unwanted sexual advances after discovering her adultery, resulting in both condonation and cruelty of treatment. Specifically, Mother testified to three instances when she was awakened by Father's unwanted sexual advances in December 2019 and January 2020. After the first occurrence, Father moved out of the marital bedroom and into the basement of the marital home in Gambrills, Anne Arundel County ("Marital Home").

Thereafter, Mother sought, and was granted, a temporary protective order against Father after Mother witnessed him becoming angry with one of the children. Mother's request for the protective order automatically generated an investigation by the Department of Social Services ("DSS"). A DSS investigator testified at trial that there was an allegation

that Father had pulled one of the children down the stairs, but that DSS ultimately determined that that situation did not require additional investigation. A final protective order was denied. Father thereafter moved to a second property jointly owned by the parties, a townhome in Odenton, Anne Arundel County ("Odenton Property").

At the time of trial, misdemeanor charges were pending against Mother, resulting from her having filed an internal affairs complaint in Charles County alleging that her paramour's ex-wife, a law enforcement clerk in that county, had used law enforcement resources to gather information about Mother. After an internal affairs investigation, Mother was charged with making a false statement to a law enforcement agency and fabricating evidence in support of that claim. Trial on those charges was not scheduled to begin until after the circuit court concluded the trial in this case.

After four days of trial, and arguments of counsel, the court entered a judgment of absolute divorce on the grounds of Mother's adultery ("Divorce Judgment"). Therein, the court awarded sole legal custody of the minor children to Father and shared physical custody to Mother and Father on a designated 2:2:5:5 schedule. The court also awarded use and possession of the Odenton Property to Father for three years and ordered the immediate sale of the Marital Home. Further, Mother was ordered to provide health insurance for the children and both parties' requests for a monetary award were denied.

Mother thereafter filed a motion to alter or amend the Divorce Judgment. Specifically, Mother sought to modify legal and physical custody, use and possession of the Marital Home, and the court's denial of Mother's request for a monetary award. That motion was denied, and this appeal followed.

STANDARD OF REVIEW

Mother's assertions of error by the trial court implicate several standards for our review. As to the child custody issue, there are "three interrelated standards of review." *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012). First, factual findings made by the circuit court are reviewed for clear error. *In re Yve S.*, 373 Md. 551, 586 (2003). Second, the court's legal conclusions are reviewed *de novo*. *Id.* Lastly, when "the ultimate conclusion of the chancellor [is] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the chancellor's decision should be disturbed only if there has been a clear abuse of discretion." *Davis v. Davis*, 280 Md. 119, 126 (1977).

Moreover, we "review a trial court's decision relating to the competency of children to testify under an abuse of discretion standard." *Karanikas v. Cartwright*, 209 Md. App. 571, 591 (2013).

Further, this Court has stated that "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 his or her judgment was clearly erroneous." *Court v. Court*, 67 Md. App. 676, 684 (1986).

Lastly, the "decision regarding whether to grant a monetary award, and the amount of such an award, is subject to [appellate] review for abuse of discretion." *Flanagan v. Flanagan*, 181 Md. App. 492, 521 (2008).

An abuse of discretion is one which is "clearly against the logic and effect of facts and inferences before the court[.]" *In re Adoption/Guardianship No. 3598*, 347 Md. 295,

312 (1997) (quotation marks and citation omitted). "Put simply, we will not reverse the trial court unless its decision is 'well removed from any center mark imagined by the reviewing court.'" *Santo v. Santo*, 448 Md. 620, 626 (2016) (citation omitted). "[E]specially in the arena of marital disputes where notoriously the parties are not in agreement as to the facts," we have emphasized that, "we must be cognizant of the court's position to assess the credibility and demeanor of each witness." *Keys v. Keys*, 93 Md. App. 677, 688 (1992).

DISCUSSION

I. The circuit court did not err in granting Father an absolute divorce on the grounds of adultery.

Mother asserts that the court erred in granting Father an absolute divorce on the grounds of adultery "despite evidence of [Father's] condonation and cruelty." Father responds that the evidence of his alleged conduct after learning of Mother's adulterous activity does not rise to the level of condonation or cruelty as established by Maryland law.

Md. Code Ann., Family Law ("FL") § 7-103(a)(1) authorizes the court to grant an absolute divorce of the grounds of adultery. Condonation, as a defense to the charge, is "a factor to be considered" in determining whether divorce should be granted based upon adultery. FL § 7-103(d). As this Court has previously explained, "[c]ondonation is a conditional forgiveness of a marital offense." *Moore v. Moore*, 36 Md. App. 696, 699 (1977). It requires "an implied promise that the marital offenses or acts rendering the marital relation intolerable will not be repeated by the erring spouse and that the offended party will be treated with conjugal kindness." *Id.* Evidence of condonation includes

"[r]esuming normal marital relations[.]" *Aronson v. Aronson*, 115 Md. App. 78, 110 (1997). Condonation is not, however, an "absolute bar" to divorce on the grounds of adultery. FL § 7-103(d).

Here, the court found that Mother committed adultery (indeed, it was conceded) and her evidence did not prove that Father condoned her adultery:

> So, as I said, I think the evidence is overwhelming and I'm granting the divorce on the grounds of adultery. There's been no cond[onation] or defense that would bar the commission of the adultery.
>
> I [think Mother's] counsel raised the issue, well, did he condone it, if he suspected adultery as early as December of 2019, yet he still wanted to have sexual relations with her after that date?
>
> There was no proof that sexual relations occurred, number one, but the adultery, when you condone something, it has to be with the intent of it never happening again. And quite frankly, he got a phone call from her paramour's wife on January 2nd, pretty much confirming all of his suspicions. So, those acts of attempted sexual intercourse with her happened before he really had any convincing proof that there was even adultery, so it could not possibly be cond[onation]. [2]

Mother maintains that Father condoned her adultery when he "continued to live in the Marital Home, requested counsel[]ing for the parties' marital issues, and made numerous unwanted sexual advances toward [her]." The record does not support a finding that Father's limited attempts at intimacy amount to condonation. As the court correctly pointed out, the facts indicate no promise or implied promise by Mother that the adultery

[2] The testimony at trial demonstrates that two of the unwanted sexual advances occurred in December 2019 and one occurred in January 2020. Although Mother asserts that the trial court's comments indicate the court's confusion on the timeline as it pertains to the third occurrence, we are unpersuaded that any such confusion as to the January instance would have affected the court's findings regarding condonation or cruelty.

would not be repeated, that Father would be treated with conjugal kindness, or that normal marital relations would resume. *See Dorsey v. Dorsey*, 245 Md. 703, 704 (1967) (holding that "where the husband breaches this condition [that offenses will not continue] by maintaining his illicit relationship, the right to the remedy for former marital offenses revives"). Indeed, Mother declined Father's suggestion of counseling and admitted that she had "zero interest" in marital relations. The court did not err in failing to find condonation under these facts.

Nor did the court err in failing to find that Father's conduct did not rise, legally, to the level of cruelty as established in Maryland family law jurisprudence. In the context of a divorce action, cruelty "does not require physical violence or the threat of physical violence[.]" *Frazelle-Foster v. Foster*, 250 Md. App. 52, 54 (2021). Cruelty must be shown to be conduct, "calculated to seriously impair the health or permanently destroy the happiness of the other." *Das v. Das*, 133 Md. App. 1, 33 (2000) (quotation marks and citation omitted).

Here, Mother's allegations consist of three unwanted sexual advances by Father, which the court determined did not amount to cruelty:

> If I understood [Mother]'s argument, the several unwanted advances, sexually, that occurred in December of, I guess that would have been 2019, when the husband wanted to have sexual relations, the wife did not. I think at least one of those, if my memory serves me correctly, they were actually in the same bed together, because I don't think the husband actually moved out of the bedroom until later and started residing in the basement, but immediately, he stopped immediately, upon objection of the wife and eventually apologized.

> If that's the extent of the evidence where [Mother] is asserting cruelty, the grounds for divorce has clearly not been proven, and so I'm going to deny [Mother's counter-complaint for] the divorce based on that ground.

Mother contends that the court "[d]enigrat[ed] the severity of [her] testimony" by failing to find cruelty under these facts. We cannot agree. Even Mother admits that Father "acknowledged his actions and apologized" after the first instance in December 2019. Mother points to no other instances of cruelty on behalf of the Father throughout the parties' fifteen-year marriage. Although modern caselaw has expanded the definition of cruelty to "encompass mental as well as physical abuse[,]" the trial court is not required to find "'cruelty of treatment merely because the parties have lived together unhappily as a result of unruly tempers and marital wranglings.'" *Das*, 133 Md. App. at 33-34 (quoting *Scheinin v. Scheinin*, 200 Md. 282, 288 (1952)).

II. The circuit court did not err by awarding the parties shared physical custody and Father sole legal custody.

At the core of this appeal is Mother's assertion that the court's award of sole legal custody of the minor children to Father and shared physical custody to the parties was "contrary to the best interests of the minor children." Mother further contends that the court "questioned [her] fitness for seemingly unreasonable and arbitrary reasons." Father responds that the court properly awarded the parties joint physical custody after addressing the relevant factors, and properly awarded him full legal custody after reviewing "the decisions that [Mother] made regarding her children, the manner in which she dealt with [Father], and her credibility."

A custody determination requires "a careful examination of the specific facts of each individual case[.]" *Azizova v. Suleymanov*, 243 Md. App. 340, 344 (2019). In *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977), this Court set out criteria to be considered when making custody determinations – the "*Sanders* factors." Those factors include:

> 1) fitness of the parents; 2) character and reputation of the parties; 3) desire of the natural parents and agreements between the parties; 4) potentiality of maintaining natural family relations; 5) preference of the child; 6) material opportunities affecting the future life of the child; 7) age, health and sex of the child; 8) residences of parents and opportunity for visitation; 9) length of separation from the natural parents; and 10) prior voluntary abandonment or surrender.

Id. at 420 (internal citations omitted). In considering each of these factors, the court "will generally not weigh any one to the exclusion of all others." *Id.*

In *Taylor v. Taylor*, 306 Md. 290 (1986), the Court of Appeals expanded on the factors enumerated in *Sanders* and set out additional criteria to be considered, particularly where shared or joint custody is at issue. The *Taylor* factors include: 1) capacity of the parents to communicate and to reach shared decisions affecting the child's welfare; 2) willingness of parents to share custody; 3) fitness of parents; 4) relationship established between the child and each parent; 5) preference of the child; 6) potential disruption of child's social and school life; 7) geographic proximity of parental homes; 8) demands of parental employment; 9) age and number of children; 10) sincerity of parents' requests; 11) financial status of the parents; 12) impact on state or federal assistance; 13) benefit to parents; and 14) any other factors as appropriate. *Taylor*, 306 Md. at 304-11.

While the factors set out in both *Sanders* and *Taylor* are instructive in custody determinations, above all, "in any child custody case, the paramount concern is the best interest of the child." *Taylor*, 306 Md. at 303. *See also Azizova*, 243 Md. App. at 347 ("Unequivocally, the test with respect to custody determinations begins and ends with what is in the best interest of the child.").

The ability of parents to communicate has been described as "the most important factor in the determination of whether an award of joint legal custody is appropriate[.]" *Taylor*, 306 Md. at 304. The Court of Appeals has held that, "[r]arely, if ever, should joint legal custody be awarded in the absence of a record of mature conduct on the part of the parents evidencing an ability to effectively communicate with each other concerning the best interest of the child, and then only when it is possible to make a finding of a strong potential for such conduct in the future." *Id*.

Here the circuit court determined that joint legal custody was discarded "right from the beginning" due to Mother's failure to communicate with Father:

> If she had simply approached this case without an all-out attack on the father, I may have considered joint legal custody, but Taylor v[.] Taylor was discarded, I think, right from the beginning, even by the attorneys, where there's no ability to communicate. And the reason there's no ability to communicate - - that's just one of the Taylor factors - - is 100 percent on her side of the table. She has zero ability to communicate with the father; it's either her way or the highway.

We find it significant, as did the trial court, that, although Mother's Motion to Alter or Amend sought joint legal custody, Mother had rejected an award of joint legal custody early on in the circuit court, Mother's counsel even asserting that, "joint legal custody

would be difficult." We find no abuse of discretion in the court's award to Father of full legal custody of the minor children.

Mother further maintains that the court erred in awarding the parties shared physical custody. Mother contends that while the court did "cite the *Taylor* factors and the [*Sanders*] factors in its decision," that, "the trial court did not thoroughly analyze said factors[.]" We are not persuaded, because the record indicates otherwise. The court addressed each of the *Sanders* factors, discussing the four most relevant factors in extensive detail. Specifically, the court determined that the first four *Sanders* factors – the fitness of the parents, character and reputation of the parties, desire of the natural parents and agreements between the parties, and the potentiality of maintaining natural family relations – were of utmost importance under the facts.

First and foremost, while acknowledging that Mother has "done a good job with always caring for the needs of the children, the physical needs of the children[,]" the court nonetheless determined that the first *Sanders* factor – the fitness of the parents – did not weigh in her favor:

> I have a question of whether or not she's looked out for [the children's] psychological or mental needs, because she was willing to expose them to this custody case by suggesting that I should talk to them, so I'm not sure that was in their best interests.
>
> A good parent, as I stated before, and a fit parent, is a parent who can co-parent and who can respect the other party. He can, because he suggested equal time. She can't, because she wants to relegate him to a weekend father. It bears on fitness as a parent.

Moreover, the court determined that Mother's character – *Sanders* factor two – weighed against her for several reasons. Of Mother's credibility, the court stated:

> [A]fter [Mother] was sworn in and she stated her name and address, I didn't believe anything she said at any point during this trial, because every time she was asked a tough question, and she's an intelligent woman, I can't tell you how many times her answer was, I don't recall that. I don't remember that. I deny that. It was just incredible that she expected me to believe her testimony about anything that happened in this case, and I don't often say that.
>
> Like I said, people sometimes make a misstatement. People sometimes, you know, get confused. But these were premeditated lies. And her witnesses, in my opinion, as part of this conspiracy against the father, compounded it.

Additionally, the court found that Mother's filing of both the internal affairs complaint against her paramour's ex-wife[3] and the request for the temporary protective order against Father[4] – "two legal proceedings initiated by [Mother] that have exploded

[3] Describing the internal affairs complaint, the court explained that:

> [Mother] took it upon herself to file a complaint against his wife with [i]nternal [a]ffairs, and I read that complaint, and she lied twice in that complaint. She said, I don't know who this woman is. She knew full well who that woman was; it was her paramour's wife.
>
> And then she said, my husband has no contact with me or the children. Blatant lie. She put that in the complaint. And to sit down and fill out a complaint that inherently is based on lie after lie reflects seriously on her character and reputation. And I mentioned this - - it concerned me - - I thought she was going to take this thing and somehow mitigate it, deny it, explain it. Not a word. It's like I was going to forget about it.

[4] Regarding the protective order, the court stated:

> I sensed that it was out of a sign [of] desperation that the mother thought, I'm going to gain some leverage by filing this protective order, and she was successful [in] getting him put out temporarily, disrupting his life. He had to go live with a neighbor and he was deprived of access to his children.

(continued…)

and not had the result that she had hoped they [would have]" – reflected poorly on her character. Lastly, the court found Mother's general history of exposing the children to her paramour to be "poor judgment to say the least, and it seriously reflects on her character." This conclusion was based on the court's interpretation of the evidence that Mother had asked her paramour to go on a trip to Florida with her and one of the minor children just days after meeting him online.[5] Mother's contention that the court's findings regarding her character were seemingly unreasonable and arbitrary are without merit.

Further, the court determined that *Sanders* factor three – the desire and agreement of the parties – also weighed against Mother:

> Well, there was no [pendente lite order], no consent order, so there really was no agreement. [Mother] wants us to believe that they did have an agreement and, again, I'd hearken back to what I said before: How do the parties conduct themselves leading up to the case?
>
> Well, after the protective order failed in March of '21 and the father moved out of the house, the mother pretty much had control of the whole situation. And she wants me to believe that it was a give-and-take, and I discard that completely as nonsense. It was not give-and-take; it was her way or the highway.
>
> But I can assure you that these district court judges and the circuit court judges that I know, scrutinize final protective orders quite seriously, especially when there's a custody case pending. Judge Duden, who I have known for many years and respected, tossed it out. I'm not going to call it a bogus protective order, but I'm going to say it was filed under very, very questionable circumstances.

[5] The court summarized that, "[a]dultery did not cost her custody in this case; it was her manner of dealing with her husband, quite frankly. That was part of it. And exposing the children to her boyfriend."

Lastly, the court also found *Sanders* factor four – the potentiality of maintaining natural family relations – unfavorable to Mother:

> [I]n the event that the mother was to end up with primary, physical custody… and exposed the children to these, the stepmother, the uncle, the [grand]father, the neighbors, all of these people who have already prejudged and put the [Father] in a bad light, would certainly not promote a future relationship with him to the children. It just wouldn't happen. As a matter of fact, I think they would do everything they could to minimize contact with the father.

Further, the court specifically rated the credibility of two of the witnesses called in Mother's case at "zero,"[6] adding, "to sum up, I think all the witnesses that I heard from [Mother] were either enablers or people that were bending over backwards not to say anything that was going to harm [Mother] in this custody case."

Mother maintains that the court erred because several of the remaining *Sanders* factors "were not discussed in much detail." In that assertion**,** Mother points to the fact that the court declined to hear the preferences of the children and that, regarding material

[6] Of one such witness, the court stated:

> [T]he child[ren]'s uncle, I had to tell him on at least five or six occasions to look at me when he testifies and to keep his voice up. Now, maybe that's just his mannerism - - I don't know - - but a judge or anybody, if it's a juror, can assess the credibility of a witness by their demeanor on the witness stand. He was nervous. He was hesitant. And you can tell that he did everything to help his sister.
>
> But, again, he couldn't say one positive thing about the father. He even offered opinions that were not objected to, on how the father should act with the children. I don't even know if he has any children, but it was not objected to, and I heard him, but I found him to be zero, on a credibility chart, zero.

opportunities affecting the children, the court stated only that, "[b]oth parties are okay financially." Such assertions**,** however, merely demonstrate "that a fact-finder might have reached different conclusions from the evidence or might have assessed the custody factors differently." *Gizzo v. Gerstman*, 245 Md. App. 168, 206 (2020). Her contentions "fail to show that any of the trial court's findings were unsupported by sufficient evidence or that the court's reasoning was irrational." *Id*.

The Court of Appeals has stated that "[p]articularly important in custody cases is the trial court's opportunity to observe the demeanor and the credibility of the parties and witnesses." *Petrini v. Petrini*, 336 Md. 453, 470 (1994). Here, where the court engaged in a thorough analysis, assessed the credibility of the parties and witnesses and clearly considered the *Sanders* and *Taylor* factors, we can find no abuse of discretion. We have "time and time again affirmed custody determinations where the trial judge embarked upon a thorough, thoughtful and well-reasoned analysis congruent with the various custody factors." *Azizova*, 243 Md. App. at 347.

III. The circuit court did not err in denying Mother's request for an *in camera* interview of the minor children.

Mother maintains that the court erred in denying her request for an *in camera* interview of the minor children, asserting specifically that the oldest of the parties' minor children, "who has specific unique needs, should have been assessed and considered for *in camera* interview."

The circuit court has the "discretion to interview a child." *Karanikas*, 209 Md. App. at 590 (quotation marks and citation omitted). "While the preference of the children is a

factor that *may* be considered in making a custody order, the court is not required to speak with the children." *Lemley v. Lemley*, 102 Md. App. 266, 288 (1994) (emphasis in original). Moreover, "the desire of a child is not controlling upon the court." *Ross v. Pick*, 199 Md. 341, 353 (1952). This is because

> [w]e recognize that a child, particularly of young and tender years, could be subjected to severe psychological trauma because of a custody case. We are confronted, therefore, with an attempt to balance the right of the parents to present evidence as to what they deem to be in the best interest of the child as against possible severe psychological damage to the child.

Marshall v. Stefanides, 17 Md. App. 364, 369 (1973).

Here, the court determined that conducting an *in camera* interview of the children was not appropriate due to their ages - 12, 10, and 7 - and the fact that they had primarily been under Mother's influence prior to trial:

> [MOTHER'S COUNSEL]: We believe the best way to know the children's preference and the best way for you to understand the best interest of their children is to speak with them. . . .
>
> THE COURT: Counsel, I totally disagree especially when the children have been primarily living with her under her influences the last several months.
>
> [MOTHER'S COUNSEL]: Well –
>
> THE COURT: I don't want to be in a position where I have to cross-examine the children. I have never found it a good practice. Now when a child becomes 14, 15 and higher, maybe –
>
> * * *
>
> THE COURT: – which none of these children have reached that age.

Mother argues that "[t]here is no specific age that is considered sufficient or insufficient[,]" and that the court thus erred by denying her request for the court to conduct an *in camera* interview. Mother nonetheless fails to provide support for her contention that

the court was *required* to conduct an *in camera* interview with the minor children, and we are not aware of any. The court exercised its discretion and determined that it was not in the best interests of the minor children to conduct an *in camera* interview under the facts of this case. We cannot say that this was "clearly against the logic and effect of facts and inferences" before the court. *In re Adoption/Guardianship No. 3598*, 347 Md. at 312 (quotation marks and citation omitted).

IV. The circuit court did not err in ordering the immediate sale of the Marital Home and granting Father's temporary use and possession of the Odenton Property.

Mother asserts that the court erred in ordering the immediate sale of the Marital Home and by granting Father temporary use and possession of the Odenton Property. Father responds that the court had liberal discretion in determining use and possession of both the Marital Home and the Odenton Property, and that its judgment should thus be affirmed.

Section 8-208 of the Family Law Article provides that when granting a divorce and considering family property, "the court may: (i) decide that one of the parties shall have the sole possession and use of that property; or (ii) divide the possession and use of the property between the parties." FL § 8-208(a)(1). The court has broad discretion to do so "regardless of how the family home or family use personal property is titled, owned, or leased[.]" FL § 8-208(a)(1).

Both the Marital Home and the Odenton Property are jointly owned by the parties. Mother maintains, without any legal support, that the court abused its discretion because "the Marital Home is in the minor children's current school district" and because Father

"stated that he did not want to remain at the Odenton Property[.]" The court properly considered Father's testimony that his use and possession of the Odenton Property is temporary and that he seeks to obtain a home within the children's school district. Further, the court ordered the proceeds of both properties to be split equally once sold. We are unpersuaded that this was "well removed from any center mark imagined" by this Court. *Santo*, 448 Md. at 626 (quotation marks and citation omitted).

V. The circuit court did not err in denying Mother's request for a monetary award.

Mother contends that the court erred in failing to grant her a monetary award. Mother asserts that she was entitled to a monetary award for three reasons: "(1) for [Mother]'s substantial contributions to the minor children's academic, extracurricular, and medical expenses during litigation in the trial court; (2) to adjust the parties' equities in their numerous marital financial and retirement accounts; and (3) as justice requires to account for [Father]'s admitted dissipation of marital assets." Father responds that Mother failed to request a monetary award or set forth a dissipation claim in the circuit court, and that her claims for a monetary award are not preserved for appellate review.

These issues have not been preserved for our review. Md. Rule 8-131(a) ("[T]he appellate court will not decide any … issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]"). Issues two and three were not raised at all in the circuit court and cannot be asserted for the first time on appeal. Moreover, although Mother raised her request for contribution in the circuit court, Mother failed to address this issue even when specifically requested at trial:

> THE COURT: Do I need to elaborate on any other property, because I've kind of put that on the bottom end of the priorities in this case. I looked at the 9207s.
>
> Is there any other rulings that the parties need?
>
> Counsel, I'll hear from you. Do I need to do anything with - -
>
> (Short pause taken.)
>
> [MOTHER'S COUNSEL]: No, Your Honor. There's no other property.
>
> THE COURT: Okay. Thank you.

Even if Mother's request for contribution had been preserved, Mother's reliance on FL § 8-205 is misguided. Section 8-205 provides that, "the court may transfer ownership of an interest in property described in paragraph (2) of this subsection, grant a monetary award, or both, as an adjustment of the equities and rights of the parties concerning marital property, whether or not alimony is awarded." FL § 8-205(a)(1). The purpose of the monetary award is "to achieve equity between the spouses where one spouse has a significantly higher percentage of the marital assets titled [in] his name." *Long v. Long*, 129 Md. App. 554, 577-78 (2000). This Court has explained that a monetary award may be appropriate "to provide a means for the adjustment of inequities that may result from distribution of certain property in accordance with the dictates of title." *Gallagher v. Gallagher*, 118 Md. App. 567, 576 (1997) (quotation marks and citation omitted).

Here, Mother's claim for contribution is not based on any allegation that the division of the parties' property is unfair. Instead, Mother contends that she is entitled to a monetary award because she was "almost exclusively burdened with costs and expenses associated with the minor children's maintenance and academic, extracurricular, and medical needs

during the pendency of [the] divorce litigation." Mother provides no support for her contention that a party is entitled to contribution for any such expenses under FL § 8-205, and we are aware of none. The court's denial of Mother's request for a monetary award for expenses incurred during the course of litigation was not an abuse of discretion.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.