Circuit Court for Baltimore County
Case No. C-18-000019

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1794

September Term, 2019

SHER ALI CHAUDRY

v.

NANTARA CHAUDRY

Graeff,
Berger,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, Deborah S., J.

Filed: July 12, 2021

Sher Ali Chaudry, the appellant, challenges an order of the Circuit Court for Baltimore County granting his wife, Nantara Chaudry[1], an absolute divorce, a marital award, joint legal and shared physical custody of the parties' children, and child support. He presents for review the following three questions:

> I. Did the circuit court err when it failed to enforce the parties' *mehr* agreement when it found that the entry into the *mehr* during the marriage ceremony was a tradition rather than an enforceable agreement whereby the parties agreed that no marital property would accrue in exchange for a sum certain?
>
> II. Did the circuit court err when it determined the value of two real properties known as 1007 Hartmont Road and 6045 Moorehead Road based on the unqualified testimony of Wife, thus requiring the court to reconsider the monetary award?
>
> III. Did the circuit court err when it imputed income to Husband after finding him to be voluntarily impoverished, despite the involuntary nature of his job loss, and considering Husband had actual income from his continued employment, thus requiring a reversal of the court's child support determination?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTS AND PROCEEDINGS

The parties were married on January 4, 2004, in an Islamic religious ceremony in Virginia. As part of the ceremony, the parties signed an agreement known as a *mehr*, which we will elaborate upon in our discussion of the questions presented. After they were married, the parties lived at 1009 Hartmont Road, in Catonsville, which was purchased by Sher's parents before the parties' marriage. In 2012, Sher's parents transferred title of that property to him by a deed that did not include Nantara's name.

[1] For ease of reference, we shall refer to the parties by their first names.

At the time of the marriage, Sher held an associate degree in applied science and was employed as a certified nuclear medicine technician. He worked full time at Prince George's Hospital, then for a short time at Union Memorial Hospital, and later at Virginia Hospital Center. Beginning in about 2010, in addition to his full-time employment, Sher worked part-time at Prince George's Hospital on an as-needed basis.

At some point, Nantara earned a bachelor's degree in health science from George Mason University. Prior to July 2017, she did not work outside the home except for one year when she worked as a substitute teacher in Baltimore County. The parties had four children: Mohammed H., born February 4, 2007, Myla, born May 8, 2008, Mohammed F., born October 1, 2010, and Naazish, born February 7, 2012.

The parties had a history of domestic violence. Nantara claimed that Sher cursed at, hit, and threatened her, and engaged in extreme intimidation. She accused him of assaulting her in 2008, twice in 2013, and twice in 2017, and testified that on each occasion she sought a protective order. One time, Sher was charged with second-degree assault. According to Sher, that charge was dismissed after he completed an anger management class. Subsequently, he had the case expunged. Nantara claimed that Sher placed a tracking device on her vehicle, that he was very jealous, and that he did not like her to speak with other men.

In July 2017, Nantara obtained full-time employment at a company known as Fiserb. According to Nantara, Sher threatened and harassed her and sent e-mails and text messages "non-stop" when she was at work. When he refused to stop, Nantara called the security office at the hospital where Sher worked. She reported that "somebody is

continuously on the phone from the radiology department and I'm feeling harassed from that person. So can you please try to enforce your phone policy stricter."

As early as March 2017, the Virginia Hospital Center took corrective action against Sher for, among other things, leaving his shift without authorization. On September 7, 2017, Sher was placed on probation for 90 days because of his tardiness. On September 18, 2017, Sher's employment was terminated for violating the terms of his probation by being tardy without authorization on several dates. After his termination, Sher continued to work part time at Prince George's Hospital and obtained part-time employment as a driver for the ride-hailing company Uber. He applied for a job at Walter Reed Hospital and a couple of other positions without success. He claimed that he looked for work and checked job boards "[o]nce a week," but "there is nothing that is in reach."

On November 6, 2017, the parties separated. At that time, there were two properties titled solely in Sher's name. One was located at 1007 Hartmont Road, next door to the family home, and the other was located nearby at 6045 Moorehead Road. Nantara asserted that both properties were rented to tenants. Sher disagreed and testified that at various times, one of his brothers lived at 1007 Hartmont Road and did not pay rent. After the parties' separation, Sher transferred title of both properties to family members.

On January 2, 2018, Nantara filed a complaint for absolute divorce. Sher responded by filing a counter-complaint for absolute divorce or, in the alternative, for limited divorce. A pendente lite hearing was held on May 29, 2018, after which a pendente lite order was entered providing for, among other things, joint legal custody and shared physical custody of the parties' four children.

A hearing on the merits was held on April 30, May 1, and May 2, 2019. In a written memorandum opinion and order entered on September 27, 2019, the court found, among other things, that Sher had attempted "to dissipate the most valuable marital assets for the purpose of depriving [Nantara] of her fair share of marital property." The court also found that Sher continued to collect rent in the amount of $2,550 for the homes at 1007 Hartmont Road and 6045 Moorehead Road, that he failed to report income for purposes of child support and alimony calculations, that he had made insufficient efforts to obtain employment in his chosen field, and that he had voluntarily impoverished himself. The court imputed income to Sher in the amount of $8,826 per month. It granted Nantara an absolute divorce, awarded joint legal and shared physical custody of the children to the parties, made an award of child support to Nantara, and granted Nantara a marital award of $279,374.11.

Within ten days, Sher filed a motion to alter or amend the judgment to correct an error with respect to the calculation of child support. In an order entered on November 1, 2019, the circuit court granted the motion to alter or amend the judgment and reduced Sher's child support obligation to $281 per month. This timely appeal followed.

We shall include additional facts as necessary to our discussion of the issues.

DISCUSSION

I.

Sher contends the trial court erred by refusing to enforce a *mehr*[2] the parties entered into during their Islamic wedding ceremony. He argues that the *mehr* was a valid, enforceable prenuptial agreement pursuant to which Nantara agreed to accept a payment of $10,000 in lieu of an equitable distribution of marital property in the event of a divorce. The parties do not dispute that they entered into a *mehr* during their wedding ceremony. They dispute the terms of that agreement, however.

A. *Mehr* Agreements in General

Recently, in *Nouri v. Dadgar*, 245 Md. App. 324 (2020), we had occasion to discuss *mehr* agreements in the context of the marriage of individuals who were of Iranian descent. The parties before us are of Pakistani descent, the facts of the instant case are different from those in *Nouri*, and neither party produced expert testimony at the hearing below. Nevertheless, our discussion in *Nouri* of the general purpose and nature of *mehr* agreements is helpful to our understanding of the issue at hand.

In *Nouri*, we recognized that in Islam, marriage "is a contractual undertaking, the basic elements of which are offer, acceptance, and [*mehr*]." *Nouri,* 245 Md. App. at 334. A *mehr* "is a religious obligation, prescribed by the Quran[.]" *Id.* at 335. The *mehr* is "'a sum of money or some other economically valuable asset that a husband must give to a

[2]The word mehr, also spelled mahr and meher, is sometimes referred to as sadaqa. *See generally Nouri v. Dadgar*, 245 Md. App. 324, 334-35 (2020)(and sources cited therein). In the instant case, the parties also used the phrase *haq mehr*.

wife.'" *Id.* at 334-35 (quoting Nathan B. Orman, *How to Judge Shari'a Contracts: A guide to Islamic Marriage Agreements in American Courts*, 2011 Utah L. Rev. 287, 302 (2011)). The *mehr* may consist of anything of value. *Id.* at 335. The precise nature and amount of the *mehr* varies in each contract. *Id.* In *Nouri*, we explained:

> The *mahr* is a personal obligation of the groom to the bride, which, "[g]enerally speaking[,] . . . is divided between an immediate gift to the wife" (the "prompt" or "immediate" *mahr*) "and a deferred payment." Orman, *supra*, at 291. In principle – or sometimes, under explicit terms of the contract – the wife is entitled to the deferred *mahr* upon demand at any time following the marriage, and "any delay is a matter of contractual forbearance on her part." *Id.* at 302. In practice, though, "[s]uch delays are standard," and the deferred *mahr* typically becomes "due upon divorce or the husband's death." *Id.*; [Jeanette] Wakin, [*Family Law in Islam*, in 9 Encyclopaedia Iranica 184-96 (2012), http://www.iranicaonline.org/articles/family-law (accessed Feb. 12, 2020)] *supra*; *see also, e.g.*, *Qureshi v. Qureshi* [1972] Fam. 173 [186] (Eng.) (noting that the "sadaqa in the instant case amounted to a promise by the husband on behalf of himself and his estate to pay to the wife the sum of 9,000 rupees . . . either (by agreement) on demand at any time or (perforce) on the dissolution of the marriage by divorce or death.").

Id. at 335-36.

In *Nouri*, "[t]he parties' experts offered at least two explanations for the historical development of [*mehr*] in Islamic marriage contracts[,]" each of which was "grounded in features of Islamic law that differ from the law of Maryland." *Id.* at 336. The first was that a *mehr* "can operate as a disincentive for a husband to exercise his disproportionate power to divorce his wife without cause under Islamic law." *Id.* The second was that "because Islamic law does not recognize marital property, a [*mehr*] can provide a wife with some financial security in the event of divorce or the husband's death." *Id.*

With this general understanding of *mehr* agreements in mind, we turn to the case before us.

B. Evidence Presented in the Circuit Court

At the time of the hearing below, neither party was in possession of the original *mehr* or a copy of it. The parties agreed that they had entered into a *mehr* and signed it during their wedding ceremony, but they disagreed about its terms. The court received evidence on that issue as a preliminary matter.

Sher took the position that the *mehr* constituted a valid, enforceable prenuptial agreement, pursuant to which Nantara relinquished her right to an equitable distribution of marital property in exchange for $10,000. In support, he introduced into evidence a video recording of a portion of the parties' wedding ceremony, still photographs made from that recording, and a document he claimed was a transcription of a portion of the wedding video.[3] Neither party included the video recording or still photographs in the record extract, but they did provide the transcription of a portion of the wedding video.[4] The transcription does not contain any indication of who prepared the document or the date on which it was prepared.

There is nothing in the transcript of the hearing below to indicate that the specific words of the *mehr* were visible in the video recording and they are not visible in the still

[3]Portions of the wedding ceremony were in languages other than English, including Urdu. Both parties testified that they are fluent in Urdu. Sher testified that the *mehr* was written in English.

[4]The still photographs were uploaded in MDEC, but the images are dark and not clearly visible. The video recording was not uploaded. Information in MDEC suggests that the video recording and the still photographs were returned to Sher.

photographs. The document offered by Sher as a transcription of the wedding video provided, in part:

> Speaker 1 – Look Mantara [sic], on behalf of Sher Ali I want permission from you about $10,000 for your wedding (I/A) Do you accept?
>
> Speaker 2 – Bride – Yes
>
> Speaker 1 – Say I accept?
>
> Speaker 2 – Bride – I accept
>
> Speaker 1 – Again, 3 times. You say
>
> Speaker 3 – Daughter to you Sher Ali gives you in the wedding 10,000 Rupees ah $10,000 as Mehar, do you accept him in the marriage?
>
> Speaker 2 – Bride – I accept.
>
> Speaker 3 – Daughter, Sher Ali to Mantara [sic] for your wedding $10,000 for Mehar, do you accept him?
>
> Speaker 2 – Bride – I accept him
>
> In background – Congratulations.

Sher testified that an immediate *mehr* of between three and four thousand dollars was paid "directly" to Nantara at the wedding ceremony and that he and Nantara agreed that "if there was ever a time where we would divorce, that she would be entitled to ten thousand dollars." Sher explained his understanding of the agreement as follows:

> Q. So what was your understanding of the agreement?
>
> A. My understanding of the agreement was that if there was ever a time where we would divorce, that she would be entitled to ten thousand dollars.
> Q. Did you have any understanding as to what was to occur with the remainder of the property that accrued?

A. That is exactly why the prenuptial agreement we had. She never worked for 13 years.

Q. Hang on. Talking about the document right now. We will get into that later. What was your understanding as to what was to happen with any property that was accrued during the marriage as a basis of the prenuptial, of the haq meher?

A. It was, if it was in my name, it was mine. If it was in her name, it was hers. So you know, I had been working well before we got married.

Sher further explained his understanding of the *mehr* as follows:

Q. Based upon your understanding of the terms of this haq meher that was signed and we saw was signed, what if anything would Miss Chaudry be entitled to upon a divorce?

A. What we had signed and agreed.

Q. Which is?

A. The ten thousand dollars.

Q. Okay. To your understanding, based upon the terms of this haq meher that we have seen signed, would Miss Chaudry have been entitled to any property obtained either before or after the signing of that haq meher?

A. No, this is what the prenuptial agreement is. I have been working since 1996. I was 16 years old. So she was in high school. She never –

Q. No is fine.

Nantara had a different understanding of the terms of the *mehr* agreement. She testified that the document she signed was a *nikah nama* and that the *haq mehr* was a portion of it. She denied ever entering into a prenuptial agreement and that she and Sher ever discussed such an agreement during their engagement. She further testified that neither she nor Sher consulted with legal counsel in Virginia about the consequences of signing either a prenuptial agreement or a *mehr*. She acknowledged that "the families came

together to discuss" the *mehr* and there was "a little bit" of negotiation a week or two before the wedding and that the *mehr* included a gift to her of $10,000. She testified, however, that the *mehr* did not include any language to indicate that the amount pledged to her was "the total amount that the spouse can receive upon divorce[.]"

Nantara denied receiving three to four thousand dollars at the wedding ceremony and asserted that a portion of the wedding video that showed Sher giving money to wedding guests was part of a game played by the bridal party. She also denied ever receiving $10,000 from Sher.

According to Nantara, neither the *nikah nama* nor the *mehr* contained any language pertaining to a subsequent divorce. She testified that the document was "really just in Pakistan culture because their government is Islamic so they have the haq meher and [sic] as part of proving that you are wedded. But here, it is just for our Islamic purpose." She went on to explain:

> Meher means that it is a gift to the bride and in Islam, how it is practiced is that the male can give it on the day of the wedding, give it throughout the years of the wedding and how it is sometimes used upon the divorce, then he is obligated to give that full amount plus whatever else is needed for the female. And to provide to her alimony, all that stuff. But that is a separate gift that he is obligated to give her upon their divorce in addition to everything else that needs to be given to her.

Nantara did not agree with the transcription of the portion of the wedding ceremony that Sher had produced as evidence. Nor did she agree with Sher's interpretation of what occurred at the wedding ceremony, as depicted in the video. She explained:

> Just wanted to say that that whole prenuptial that I'm agreeing to ten thousand and this is the terms, none of that is what is translated from what was said in that video. The video is mostly and 90 percent of whatever was

> said was Arabic and the part of the haq meher was just that one sentence that says you are marrying him with ten thousand dollars from him, that is it. That is all that haq meher part was. The rest was just Arabic prayers and it was just family talking. That is it. There was no like reiteration of all that, what he was describing in his testimony.

C. The Trial Court's Decision

After hearing argument from the parties about the terms of the *mehr*, the trial judge announced her decision from the bench. The court determined that the issue to be resolved, which was a matter of contract, was whether the *mehr* constituted an enforceable prenuptial agreement; and Sher bore the burden of proof. The court determined that Nantara's testimony was "more persuasive as to the nature of the agreement." The court also found that the video recording of the wedding showed Sher giving money to guests, but not to Nantara. With respect to the gifts given by Sher to the wedding guests, the court commented that she was reminded of similar wedding traditions when she viewed the parties' wedding video. The court stated that this type of tradition

> is actually not exclusive to Muslim [sic] weddings. There are other religious traditions, things like holding an apron up and people throwing money into it and the bride walking around with a white silk purse and people putting money into it. None of those represent a contract of any kind. They are all gifts.

The court found that Sher failed to meet his burden of showing that there was "an enforceable prenuptial agreement in the context" of the *mehr*. The court concluded "that there is no prenuptial agreement in this case that resolves the property rights of the parties."

Subsequently, in its written memorandum opinion, the court addressed Sher's assertion that the parties had entered into a prenuptial agreement. The court concluded that the evidence failed to establish that there was a prenuptial agreement between the parties

and, because there was no valid agreement with respect to the disposal of marital property, the court's decision in that regard would be governed by section 8-203 of the Family Law Article ("FL"). In reaching that conclusion, the court wrote:

> According to Husband, the agreement depicted in the video limited Wife's marital award to a sum of ten thousand dollars ($10,000.00) which had already been paid during the wedding ceremony. His testimony in this regard was not credible.
>
> The video was played in court. It depicted a traditional muslim ceremony during which Wife was dressed in traditional garments which included a veil that covered her face. Husband and Wife's father signed a document whereupon Husband gave money to Wife's Father. What transpired was not remotely akin to a valid antenuptual [sic] agreement. Rather, it appeared to be part of a tradition where the groom paid money to the father of the bride in return for his agreement to the marriage. Husband further offered what was purported to be a "transcript" of the ceremony. That "transcript" was not produced by an official court reporting agency. In fact, it lacked a signature identifying the individual who allegedly transcribed the ceremony. Thus, the "transcript" lacks sufficient reliability to be considered by the Court. Even if it had been proven to be an accurate transcription of the ceremony, it would fail to meet the requirements of a valid antenuptual [sic] agreement as set forth in *Cannon* [*v. Cannon*, 384 Md. 537, 558 (2005).

(Footnote omitted).

D. Arguments on Appeal

Sher contends the *mehr* he and Nantara signed as part of their wedding ceremony included a deferred *mehr* that constituted a prenuptial agreement. Pursuant to that agreement, Sher agreed to pay Nantara $10,000 at the time of a divorce in lieu of any equitable distribution of marital property. According to Sher, Nantara accepted that agreement, thereby relinquishing her right under Maryland law to an equitable distribution of marital property.

Sher argues that the trial court failed to apply the objective standard of contract interpretation, disregarded his testimony, based its findings on incorrect facts and unreasonable inferences, incorrectly focused on the immediate *mehr* payment that was made during the ceremony, and failed to consider Nantara's agreement to the deferred *mehr* of $10,000 in lieu of marital property. He maintains that, in its written memorandum opinion, the court improperly emphasized money given by him to Nantara's father and erroneously concluded that the money paid was to secure the father's agreement to the marriage. Sher asserts that the court did not fully consider the nature and extent of negotiations prior to the marriage, the knowledge that he and Nantara had of each other's financial situations during their engagement, and their intent to enter into the agreement that was signed during the wedding ceremony. We are not persuaded.

In an appeal from a bench trial, we "review the case on both the law and the evidence." Md. Rule 8-131(c). We "will not set aside the judgment 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." *Id.* When we review for clear error, "'we must consider the evidence in the light most favorable to the prevailing party and decide not whether the trial judge's conclusions of fact were correct, but only whether they were supported by a preponderance of the evidence.'" *Royal Investment Group, L.L.C. v. Wang*, 183 Md. App. 406, 430 (2008)(quoting *Bowie v. Mie Properties, Inc.*, 398 Md. 657, 676-77 (2007)). "A factual finding is clearly erroneous if there is no competent and material evidence in the record to support it." *Anderson v. Joseph*, 200 Md. App. 240, 249 (2011)(quotations and citations omitted). The clearly erroneous standard does not "apply

to a trial court's determinations of legal questions or conclusions of law based upon findings of fact." *Elderkin v. Carroll*, 403 Md. 343, 353 (2008)(citing *Southern Mgmt. Corp. v. Kevin Willes Const. Co., Inc.*, 382 Md. 524, 539 (2004)). We review such determinations *de novo*. *Id.*

In *Nouri*, we held that *mehrs* "may, in principle, be enforced as secular contracts *if* they are enforceable under neutral principles of contract law. In other words, if the secular terms of a [*mehr*] would satisfy all the elements of an equivalent civil contract, then a Maryland court may enforce the [*mehr*] notwithstanding the religious context in which it was entered." *Nouri*, 245 Md. App. at 344. We also held that *mehrs* "should be scrutinized under 'the stringent tests' applicable to a 'confidential relationship.'" *Id.* at 356-57. As in *Nouri*, because the *mehr* at issue here was entered into in contemplation of marriage, "the applicable secular legal framework is that governing agreements entered into by parties in a confidential relationship." *Id.* (citing *Cannon v. Cannon*, 384 Md. 537 (2005)).

Thus, Sher bore the burden of showing that the *mehr* "was supported by mutual assent manifested by '(1) intent to be bound, and (2) definiteness of terms,' as well as by consideration." *Nouri*, 245 Md. App. at 363 (citations omitted). In addition, he was required to show that the *mehr* "was not the product of 'overreaching, that is, whether in the atmosphere and environment of the confidential relationship there was unfairness or inequity in the result of the agreement or in its procurement.'" *Id.* (quoting *Cannon v. Cannon*, 384 Md. 537, 559 (2005)). "In other words, '[t]he agreement must be fair and equitable in procurement and result.'" *Id.* (quoting *Frey v. Frey*, 298 Md. 552, 563 (1984)).

For several reasons, the circuit court did not err in concluding that Sher failed to meet his burden of establishing that the *mehr* constituted a valid prenuptial agreement. The most notable failure of proof was with regard to definiteness of terms. The parties did not produce a copy of the *mehr*. It appears from the transcript of the hearing, below, that the substance of the *mehr* could not be determined from the video recording of the wedding, and the terms of the agreement were not visible in the still photographs taken from that video recording. The trial court did not consider the transcription of a portion of the wedding video, as it deemed it unreliable, but even if it had, all that the transcription could establish was an agreement for Sher to pay Nantara $10,000. The parties did not dispute that there was an agreement for Sher to pay $10,000 to Nantara upon divorce; however, there was no evidence other than Sher's testimony, which the court did not credit, that the *mehr* contained a provision by which Nantara agreed to relinquish her right to an equitable division of marital property in exchange for that sum. Nantara testified that the *mehr* consisted only of "one sentence, you are taking Sher Chaudry with ten thousand dollars from him in marriage." Specifically, she explained that, pursuant to the agreement, upon divorce, she expected to receive $10,000 from Sher "plus whatever else is needed[,]" including "alimony, all that stuff." She described the $10,000 the *mehr* provided for as "a separate gift that he is obligated to give her upon their divorce in addition to everything else that needs to be given to her."

In addition, there was very little evidence offered as to whether there was unfairness or inequity in the procurement of the *mehr*. Nantara testified that she and Sher never

discussed a prenuptial agreement during their engagement. According to her, a week or two before the wedding,

> the families came together to discuss it and there was negotiations, a little bit, but not really because it doesn't matter, it is a gift either way. It is from him. So they wanted a bare gift, like a small gift, the families just say that is a gift. But it is up to him however much he decides.

It is unclear from this testimony whether Nantara participated in the negotiation. Moreover, the negotiation appears to have been devoted solely to the monetary amount of the *mehr*. There is no evidence that Nantara negotiated an agreement by which she would relinquish her right to an equitable division of marital property in exchange for $10,000. For these reasons, the circuit court did not err in finding that Sher failed to meet his burden of establishing that the *mehr* constituted a valid, enforceable prenuptial agreement by which Nantara relinquished her right to an equitable division of marital property in exchange for $10,000.

Lastly, we address the trial court's comments about the portion of the wedding video that depicted money being handed out to guests. In her oral ruling, the judge merely noted that the video recording of the wedding did not show any of the money being given to the bride. She commented that, in other cultures, there are similar traditions of money being given to a bride and to guests during a wedding reception. In its written opinion, the court commented that the wedding video depicted Sher and Nantara's father signing a document and Sher giving money to Nantara's father. The court stated that "[w]hat transpired was not remotely akin to a valid antenuptual [sic] agreement," and that "it appeared to be part of a tradition where the groom paid money to the father of the bride in return for his

agreement to the marriage." As noted, the video recording of the wedding was not included in the record extract. Therefore, we cannot determine whether, as Sher argues, the court's comments were factually erroneous. It is clear to us, however, that, contrary to Sher's argument, the trial court did not conclude that he failed to establish a valid, enforceable prenuptial agreement because money was passed out during the wedding ceremony. The court found that neither the video recording nor the transcription of the wedding ceremony met the requirements for establishing a valid prenuptial agreement addressing the issue of marital property. Whether Sher paid an immediate *mehr* at the wedding or at some other time has no bearing on the issue before us, that is, whether Sher met his burden of establishing that Nantara entered into a valid prenuptial agreement by which she agreed to relinquish her rights to the equitable distribution of marital property in exchange for $10,000. A review of the entire record reveals that he did not meet that burden.[5]

[5] Subsequent to the filing of this opinion, Sher filed a motion for reconsideration, seeking an order directing the full record, including photographs and the marriage videotape, to be transmitted from the circuit court to this Court, and for this Court to reconsider its opinion in light of that supplemental material. The same day, he also filed a motion to correct the record, seeking an order directing the circuit court to transmit the marriage videotape to this Court. The appellee filed an opposition to both. The record was found to be complete except for the marriage videotape, and the motion to correct the record was granted as to that. After some delay caused by uncertainty about the location of the marriage videotape, the tape was found and transmitted to this Court.

The Court has viewed the full marriage videotape once and has viewed the portion of the videotape in which the parties sign documents more than once. There is nothing shown in the videotape to support Sher's argument that the trial judge made clearly erroneous factual findings. Moreover, the videotape does not reveal any actions taken, by signing or in any other way, that would satisfy the conditions necessary for a valid prenuptial agreement in the State of Maryland. Accordingly, we deny the motion for reconsideration.

II.

Sher contends the trial court abused its discretion by accepting Nantara's "inexpert and unsupported testimony" about the values of the real properties located at 1007 Hartwood Road and 6045 Moorehead Road. Before trial, the parties and their counsel signed a "Joint Statement of Parties Concerning Marital and Non-Marital Property," pursuant to Rule 9-207[6], in which they stated, among other things, that they were "not in agreement" as to whether certain property was marital or non-marital, including the houses at 1007 Hartwood Road and 6045 Moorehead Road. In the joint statement, the parties stated that 1007 Hartmont Road was titled in the names of Sher's parents and brother, that there was no encumbrance or lien on the property, that the State Department of Assessments and Taxation ("SDAT") assessed the property's value at $177,400, and that "Zillo"[7] [sic] listed the property's value as $225,683 As for the property at 6045 Moorehead Road, the parties stated that it was titled in the name of Sher's mother and brother, that there was no encumbrance or lien on the property, that the SDAT assessed the

[6]Rule 9-207 requires parties to file a joint statement listing all property owned by one or both of them when "a monetary award or other relief pursuant to Code, Family Law Article, § 8-205 is an issue[.]" The Rule sets forth the form to be used for the joint statement. The joint statement filed by the parties in the instant case adhered to that form. The instructions for the joint statement provide that "[i]f the parties do not agree about the title or value of any property, the parties shall set forth in the appropriate column a statement that the title or value is in dispute and each party's assertion as to how the property is titled or the fair market value." Md. Rule 9-207(b).

[7]Zillow is a commercial website that provides, among other things, an estimated market value for many residential properties. *See* www.zillow.com.

property's value at $156,500, and that "Zillo" listed the property's value at $214,341. The joint statement was admitted in evidence without objection.

Nantara claimed a marital interest in 1007 Hartmont Road and 6045 Moorehead Road and, at trial, testified about the value of each property. At no point did Sher object to Nantara's testimony about the value of the two properties. Nantara testified that 1007 Hartmont Road was the property next door to the home at 1009 Hartmont Road, where the family lived prior to the parties' separation. The property was acquired on December 23, 2009, for $175,000. Nantara further testified that Sher put down about $75,000 in cash, although she could not remember the exact amount; that the cash came from his bank account; and that he took out a mortgage for the remainder of the purchase price but paid it off within about two years. Nantara described the condition of 1007 Hartmont Road at the time it was purchased and the work done thereafter, stating:

> It needed to be fixed up for awhile. It was – there was – the lady who lived there, she passed away. She was by herself. She was elderly. And the property was bought like immediately after she passed away. So the family didn't like do anything to it. They didn't clean, didn't get rid of any furniture, just left the property to be bought. So all the furniture had to be thrown away. There was a lot of – it took a lot of time because Mr. Chaudry was working full-time. So it took months and months of renovating the floors being replace [sic], the roof was replaced. There were appliances replaced, a lot of cleaning, things like that nature.

Before the property was ready to be rented, Sher's brother moved in and lived there for some period of time without paying rent. By November or December 2010, Sher's brother had moved out and tenants were living in the house. According to Nantara, the property was rented continuously from then until the parties' separation. Initially, the rent was $1,300 per month, but then it was increased to $1,400 per month. The tenants paid the

rent either to Sher or Nantara and always paid in cash. When Nantara received the rent payments, she always counted it and put it in Sher's drawer, as he told her to do. Sher later deposited the money in his bank account. In November 2017, Sher deeded 1007 Hartmont Road to his parents and brother. Nantara testified that the last time she had been in the house was about 18 months prior the hearing on the merits. When asked if she accepted "the 225,683 as approximate value of that house," Nantara responded, "Yeah, probably around there."

The property at 6045 Moorehead Road, which was located near the properties on Hartmont Road, was purchased by Sher on September 30, 2015, for $145,000. Nantara testified that it also was purchased as a rental property and the original tenants, who paid approximately $1,250 per month in rent, were still renting the property. Those tenants always paid the rent directly to Sher. The last time Nantara had been in the house was when it first was purchased in 2015. On November 27, 2017, Sher deeded the property to his mother and brother. Nantara accepted that the fair market value of 6045 Moorehead Road was approximately $214,341. She acknowledged that the fair market values listed on the parties' joint statement were "best guesses."

Sher testified that the last time he had been in the house at 1007 Hartmont Road was "several months" before the merits hearing. He used his own money for the down payment and took out a mortgage to purchase the property. He "may have" used some of his income to pay the mortgage, and his "[s]isters, aunt, brother, and family" paid money directly to the lender so the loan was paid off "in a few years." Sher denied that there ever was a tenant living there and that he ever received rent for that property. He claimed that his

brother lived at the house for "a number of years" but did not pay any rent.[8] After he lost his job, he could not pay the taxes and bills, so he transferred the property "back to the

[8]On cross-examination, Sher testified as follows:

Q. Now, that property [1007 Hartmont Road] – is that property leased out? Was that leased out at the time you conveyed that to your family?

[Sher]: No.

Q. It was not. So it was vacant is your testimony?

A. Yes.

Q. That is the property next door to you?

A. Yes.

Q. And it was vacant?

A. My brother was there.

Q. I thought he was at the –

A. I have two brothers.

Q. Okay. So this was –

A. I have a brother, cousin, same thing. But my brother was there.

Q. But it wasn't rented out?

A. No. Not by me.

Q. Had you ever rented this property –

A. I did not.

Q. From the date you purchased it?

(continued)

rightful owner who initially helped buy it and who it was for," specifically his parents and brother (although he also testified that only his parents were on the title.) Sher testified that he had "never looked at Zillow." He disagreed with the estimated value of the property on the parties' joint statement, "[b]ased on the condition of the property." He believed the house needed renovation and that "nothing" had been updated since 1955. He estimated that an immediate listing of the property would be for $125,000 to $130,000.

As for the home at 6045 Moorehead Road, Sher testified that he put down four or five thousand dollars; his father gave him the money used to make the purchase; and there was no mortgage on the property. Sher claimed that he collected rental income from tenants and that he "would give that money to [his] Dad for the rental that I was living in his house." He last received income from the property about a year before the merits hearing. He had not been in the house for "a couple of years." After he lost his job, he transferred the property to his mother and brother, whom he described as "the rightful owner." He disagreed with the estimated fair market value on the joint statement because "[t]here is no basement[,]" [t]here is one bathroom there[,]" and, it "needs renovation."

The trial court found that both 1007 Hartmont Road and 6045 Moorehead Road were marital property and that, with respect to both properties, Sher's transfer of title was an attempt at dissipation to avoid their inclusion in the court's consideration of a marital award. With respect to 1007 Hartmont Road, the court found that "[c]redible evidence produced at trial established a fair market value of . . . two hundred twenty-five thousand

A. I did not.

six hundred eighty-three dollars ($225,683.00)." As for the property at 6045 Moorehead Road, the court found "that the fair market value of the property is two hundred fourteen thousand three hundred forty-one dollars ($214,341.00)." Both findings of fair market value matched the values the parties had obtained from Zillow and included in their joint statement.

Sher argues that the trial court abused its discretion by accepting Nantara's testimony about the values of 1007 Hartmont Road and 6045 Moorehead Road because she lacked foundational knowledge and expertise in real estate valuation, did not purchase or own either property, did not know the condition of either property, had not seen the interior of 1007 Hartmont Road for eighteen months, and had not seen the interior of 6405 Moorehead Road for five years. According to Sher, the court abused its discretion by disregarding his testimony about the values of the properties given that he was the purchaser and former owner of them. In addition, the court abused its discretion by disregarding the documentary evidence of the purchase prices that appeared on the deeds. Sher's arguments are disingenuous.

A party seeking a monetary award has the burden of establishing the value of the marital and nonmarital property.[9] *Abdullahi v. Zanini*, 241 Md. App. 372, 412-13 (2019);

[9] When a party to a divorce seeks a marital property award, the circuit court must undertake a three-step process. "First, for each disputed item of property, the court must determine whether it is marital or nonmarital." *Brown v. Brown*, 195 Md. App. 72, 109 (2010). "Second, the court must determine the value of all marital property." *Id.* "Third, the court must decide if the division of marital property according to title would be unfair. If so, the [circuit court] may make a monetary award to rectify any inequity created by the way in which property acquired during the marriage happened to be titled." *Id.* In setting (continued)

accord Murray v. Murray, 190 Md. App. 553, 570 (2010); *Blake v. Blake*, 81 Md. App. 712, 720 (1990). In *Abdullahi*, we explained that:

> "Value," under Maryland law, means "fair market value," i.e., "'the amount at which property could change hands between a willing buyer and a willing seller.'" *Rosenberg* [*v. Rosenberg*], 64 Md. App. 487, 525, 497 A.2d 485 (quoting Black's Law Dictionary 537 (rev. 5th ed.)), *cert. denied*, 305 Md. 107, 501 A.2d 845 (1985).
>
> Valuation is a question of fact subject to the clearly erroneous standard of review. *Blake*, 81 Md. App. at 720.

Abdullahi, 241 Md. App. at 412-13.

There is a presumption that the owner of property is "familiar with its value so that his opinion of its value is admissible as evidence." *See Brown v. Brown*, 195 Md. App. 72, 119 (2010)(and cases cited therein). When the circuit court's "findings are supported by substantial evidence, the findings are not clearly erroneous." *Richards v. Richards*, 166 Md. App. 263, 272 (2005)(and cases cited therein). *Accord Innerbichler v. Innerbichler*, 132 Md. App. 207, 230 (2000).

Under Rule 9-207, when a monetary award is requested, the parties shall file a joint statement listing all property owned by one or both of them. *See generally Huntley v. Huntley*, 229 Md. App. 484, 495 (2016)(quoting *Beck v. Beck*, 112 Md. App. 197, 205 (1996)(discussing joint statements under S74, the predecessor to Rule 9-207)). Facts stated

---

the monetary award, a court must consider the factors enumerated in FL § 8-205. Relevant to the instant case is FL § 8-205(b)(2), which requires the court to identify and value all marital and nonmarital assets. *See Brown*, 195 Md. App. at 117; *Flanagan v. Flanagan*, 181 Md. App. 492, 519-20 (2008).

on the joint statement provided pursuant to Rule 9-207 are "admissions by the parties in a judicial proceeding." *Beck*, 112 Md. App. at 205.

In the instant case, even if we assume, *arguendo*, that Nantara was not qualified to testify about the value of the two properties in question because she was not an owner of either one of them, and even if the estimated property values from Zillow constituted hearsay evidence (an argument not raised by Sher), we would conclude that the trial court did not err in its determination of the fair market value of either property. Although neither party offered testimony or documentary evidence from an expert or real estate professional regarding the fair market value of 1007 Hartmont Road or 6045 Moorehead Road, both parties and their counsel signed the Rule 9-207 joint statement that was admitted in evidence without objection. In that statement, Sher agreed that the fair market value of 1007 Hartmont Road, as obtained from Zillow, was $225,683 and the fair market value of 6045 Moorehead Road, as obtained from Zillow, was $214,341. No disagreement between the parties on those values was indicated in the Rule 9-207 joint statement or otherwise at any time prior to the trial.

Maryland courts have consistently held that statements made pursuant to Rule 9-207 are admissions by the parties. *See Huntley*, 229 Md. App. at 494 (quoting *Beck*, 112 Md. App. at 205 ("[F]acts stated on the Rule 9-207 form are "'admissions by the parties in a judicial proceeding.'")). In *Beck*, we noted that the purpose of S74 statements, the predecessor to Rule 9-207 statements, was to enable trial courts, in the absence of other evidence, to use the admissions and stipulations contained in them to comply with the

provisions of the Family Law Article mandating that the court determine the value of all marital property. *Beck*, 112 Md. App. at 207-08. We explained:

> In the statement, the parties are required to agree as to the classification and valuation of property in which there is no dispute. The purpose of the rule was also to reduce the complexity of the property issues by reducing the disputes in respect to them through the generation of admissions and stipulations resulting from the procedures contained in the rule. These statements are, by rule, required to be produced in the course of litigation. We reiterate that the admissions and stipulations contained in Maryland Rule S72 and S74 Statements, when filed in a case as required, may be considered as evidence by trial courts without the necessity of a formal introduction of such statements at trial.

Id. at 208.

Moreover, we previously have held that, in a civil case, "'[u]nless an appellant can demonstrate that a *prejudicial* error occurred below, reversal is not warranted.'" *Green v. Taylor*, 142 Md. App. 44, 60 (2001)(quoting *Bradley v. Hazard Tech. Co.*, 340 Md. 202, 206 (1995)(emphasis in *Green*)). Prejudice is defined as an "'error that influenced the outcome of the case.'" *Sumpter v. Sumpter*, 436 Md. 74, 82 (2013)(quoting *Harris v. David S. Harris, P.A.*, 310 Md. 310, 319 (1987)). In addition, we long have held that "only the party aggrieved by a judgment can appeal it." *Goldberg v. Goldberg*, 96 Md. App. 771, 784 (1993)(and cases cited therein).

In the instant case, the Rule 9-207 joint statement was an admission by Sher that set forth the same fair market values for the properties that the trial court relied upon. Therefore, even assuming, *arguendo*, that the trial court improperly admitted Nantara's testimony about the value of the properties, Sher was not prejudiced by the court's reliance

upon the Zillow estimates set forth in the Rule 9-207 joint statement because he had admitted that those estimates were the fair market values of the properties.

III.

Finally, Sher challenges the trial court's finding that he voluntarily impoverished himself. He maintains that the court failed to consider that he had involuntarily lost his job, had engaged in a "continued effort to secure employment in his field," and had earned actual income from his employment at Prince George's Hospital and Uber.

The trial court made several findings about Sher's income, employment, and efforts to find full-time employment in his field. It found that Sher continued to collect rent in the amount of $2,550.00 from the rental properties and failed to include that income for purposes of child support and alimony calculations. In addition, the court made the following determinations:

> Evidence presented at trial revealed that Husband worked as a nuclear medicine technologist at Virginia Hospital Center earning an average of $105,916 per year for 2014, 2015, and 2016. He was terminated from his employment after the parties' separation and has not made any good faith attempt to gain employment in that field. Although Husband has yet to obtain full time employment, he has received funds from other sources. During his testimony, Husband was confronted with documentation of deposits into his checking account from outside sources totaling $112,640.91. He refused to identify the source of that income. That conduct coupled with Husband's blatant attempts to dissipate income by transferring ownership of property to members of his family render his evidence of income, at best, unreliable.
>
> No credible evidence was presented to rebut the inference that Husband is fully capable of achieving the same income he enjoyed prior to the separation of the parties. The Court agrees with Plaintiff that imputing income equivalent to the amount of gross income he reported to the IRS for the years 2014, 2015 and 2016 is more than fair. Doing so places Husband's income at $8,826.00 per month. Wife's income is $7,667.00 per month. Accordingly, Husband's request for alimony is denied and, pursuant to the

> attached Child Support worksheet, Husband shall pay child support in the amount of $1,205.00 through the office of child support.

After the court rendered its decision, Sher filed a motion to alter or amend the judgment with respect to child support on the ground that an error was made with respect to the number of overnights the children had with each parent. The court granted that motion and ordered Sher to pay child support of $281 per month.

Sher argues that because the court's finding of voluntary impoverishment and subsequent imputation of income were clearly erroneous, the judgment should be vacated and the case should be remanded to the circuit court for recalculation of child support based on the parties' actual incomes.[10] We disagree.

"It is well established that parents have an obligation to support their children." *Gordon v. Gordon*, 174 Md. App. 583, 644 (2007)(and cases cited therein). The phrase "voluntarily impoverished" is not statutorily defined, but in *Gordon*, we held that "[a] parent is voluntarily impoverished whenever the parent has made the free and conscious choice, not compelled by factors beyond his or her control, to render himself or herself without adequate resources." *Id.* at 644 (quotation marks and citations omitted). "[A] parent who has become impoverished by choice is 'voluntarily impoverished' regardless of the parent's intent regarding his or her child support obligations." *Wills v. Jones*, 340 Md. 480, 494 (1995).

[10]Sher argues that the court should not have imputed any income to him because it erred in finding that he had voluntarily impoverished himself. He does not challenge the amount of income the court imputed to him.

In determining whether a parent has voluntarily impoverished himself or herself, courts consider a variety of factors respecting the parent's personal and professional circumstances and history:

> (1) his or her current physical condition; (2) his or her respective level of education; (3) the timing of any change in employment or other financial circumstances relative to the divorce proceedings; (4) the relationship between the parties prior to the initiation of divorce proceedings; (5) his or her efforts to find and retain employment; (6) his or her efforts to secure retraining if that is needed; (7) whether he or she has ever withheld support; (8) his or her past work history; (9) the area in which the parties live and the status of the job market there; and (10) any other considerations presented by either party.

Sieglein v. Schmidt, 224 Md. App. 222, 248 (2015); *see also Lorincz v. Lorincz*, 183 Md. App. 312, 331 (2008); *Gordon v. Gordon*, *supra*, at 645.

We review for clear error the trial court's factual findings about whether a parent is voluntary impoverished for child support purposes; and we review its ultimate ruling for abuse of discretion. *Sieglein v. Schmidt*, *supra*, at 249.

Preliminarily, to the extent Sher argues that the court did not state in its written order that it had considered several of the factors set forth in *Sieglein*, we note that even in cases where a trial court is required to consider a mandatory list of factors, it is not required "to articulate on the record its consideration of each and every factor." *Long v. Long*, 141 Md. App. 341, 351 (2001)(quoting *Dunlap v. Fiorenza*, 128 Md. App. 357, 364 (1999)). The "mere lack of an explicit discussion of each of the factors on the record by the trial court does not necessarily mean that the trial court erred." *Id. Accord Lee v. Andochick*, 182 Md. App. 268, 287 (2008). We find no such error here.

Sher sets forth several arguments to support his contention that the court erred in finding he was voluntarily impoverished. He argues that the court erroneously found that he was terminated from employment at the Virginia Hospital Center near the time of the parties' separation when his termination actually happened in September 2017, two months before the separation. In addition, he maintains he was terminated for poor performance and did not quit voluntarily. According to Sher, a "party who is involuntarily terminated from their position cannot be found to be voluntarily impoverished if the party had no intention to lose their job for the purposes of avoiding child support."

With respect to his efforts to seek new employment, Sher asserts that Nantara did not produce any evidence that he failed to seek new employment and there was no evidence to contradict his testimony that he made numerous attempts to find employment in his field. Regarding questions posed by Nantara's counsel on cross-examination about whether he applied to positions at numerous area hospitals, Sher points to his testimony that if he did not apply for a position, it was because there was no position open for which he could apply. Moreover, he was employed by Prince George's Hospital, on an as-needed basis,[11] and by Uber and earned income from those jobs.

The critical issue before the trial court was not whether Sher's termination from the Virginia Hospital Center was voluntary, or whether he actually was earning income, but whether his failure to make a good faith effort to obtain full-time employment in his field during the period from the parties' separation on November 6, 2017, through the hearing

[11]We note that Sher began his employment at Prince George's Hospital in about 2010 and held that position even when he worked full time at Virginia Hospital Center.

in April and May 2019, constituted voluntary impoverishment. We note that the court's finding that Sher was terminated from his employment after the parties' separation indeed was erroneous, as the undisputed evidence at trial showed that he was terminated from employment in September 2017, less than two months before the parties' separation. That error did not prejudice Sher, however, because the court measured the time during which he failed to make a good faith attempt to obtain employment in his field from after the parties' separation, and did not, apparently, consider the time between his termination in September 2017 and the parties' separation on November 6, 2017. *Green*, 142 Md. App. at 60 (unless a party can demonstrate that a prejudicial error occurred, reversal is not warranted).

Even for that shorter time period, the record contains ample evidence to support the court's findings that Sher failed to actively seek a full-time position in his field, chose to be underemployed, and voluntarily impoverished himself. Sher complains that the court did not consider his two jobs and the income earned from them and instead "relied heavily" on Nantara's "factually unsupported implications" that he did not make sufficient applications for positions in his field. The court found, however, that Sher failed to disclose the full extent of his income, failed to identify the source of $112,640.91 that was deposited in his bank account in 2016, and engaged in "blatant attempts" to dissipate income by transferring assets to family members. For those reasons, the court concluded that "his evidence of income [was], at best, unreliable."

Contrary to Sher's assertion, the evidence established that he applied to one position at Walter Reed Hospital, that he occasionally checked job boards, and that he found nothing

"in reach." Counsel for Nantara questioned Sher about whether he had applied to numerous medical facilities in the area for a position as a nuclear medicine technician, and Sher testified that he had applied to two of them. Sher failed, however, to provide any documentation or evidence to support his claim that he was actively seeking a full-time position in his field. The court properly noted that there was no credible evidence "to rebut the inference that [Sher] is fully capable of achieving the same income he enjoyed prior to the separation of the parties." For these reasons, we are satisfied that the court's finding of voluntary impoverishment is adequately supported in the record.

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