

Circuit Court for Prince George's County  
Case No. CAD20-11945

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 362

September Term, 2021

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MOHAMMED MOHSIN

v.

MEHNAZ JABIN SADIA

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Arthur,  
Leahy,  
Reed,

JJ.

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Opinion by Arthur, J.

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Filed: January 31, 2022

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

## **FACTUAL AND PROCEDURAL BACKGROUND**

In 2011, Mohammed Mohsin (“Husband”) married Mehnaz Jabin Sadia (“Wife”) in Bangladesh. After the marriage, Husband brought Wife to the United States, where he had lived since 1998. Husband and Wife now have two children, ages four and five.

During the marriage, Wife was a stay-at-home mother. She attended community college, cared for the children, and maintained the home. Husband worked as a banquet manager at a private club in Washington, D.C.

At some time before the marriage, Husband had purchased a residence in Lanham and had paid \$56,698.61 in cash for the closing costs. While the parties were married, however, Husband transferred the Lanham residence from himself to himself and Wife, for no consideration. From that point forward, Husband and Wife owned the Lanham property as tenants by the entirety.

Wife returned to Bangladesh, with the children, in November 2019. Although she came back to the United States a year later, she and Husband have lived separately and apart from one another since November 2019.

On May 15, 2020, Wife filed a complaint for an absolute divorce in the Circuit Court for Prince George’s County. Husband was served with the complaint and a summons on June 11, 2020.

On July 15, 2020, a month after Husband was served with the complaint, he had \$218,950.49 in a bank account at Bank of America. The account balance had grown considerably from \$112,152.48 on January 14, 2010. By August 13, 2020, however, the account balance had decreased to only \$10,953.45.

During the course of the litigation, Husband and Wife filed a joint statement of marital property pursuant to Md. Rule 9-207. In the joint statement, Husband and Wife agreed that the Lanham residence was marital property. Wife contended that Husband had removed more than \$300,000 from the Bank of America account, which she said was marital property. Husband disputed her contention. On the other hand, Husband claimed to have received \$85,000 from the sale of a house in Hyattsville, which he had assisted his brother in buying in 2002, before the marriage. He contended that the \$85,000, which went in and out of the Bank of America account during the marriage, was not marital property. Wife disagreed.

After a two-day evidentiary hearing in February 2021, the circuit court issued a memorandum opinion and order. In its opinion, the court found, among other things, that the transfer of an interest in the Lanham property was a gift from Husband to Wife. Hence, the court found that the Lanham property was marital property. The court rejected Husband's contention that he was entitled to be reimbursed for the \$56,698.61 in closing costs that he had paid when he first acquired the property.

In addition, the court addressed the question of the funds that Husband had withdrawn from the Bank of America account. The court found that the balance in the account on July 15, 2020 – \$218,950.49 – was marital property, which Husband had dissipated. The court rejected Husband's contention that the funds belonged to Husband's brother and that Husband had simply returned them to their true owner. In the absence of any corroborating evidence, such as a written ledger or account book, the court found that Husband's contention was not "credible."

Among other things, the court ordered that the Lanham residence be sold and that the net proceeds be divided between the parties. In addition, the court granted Wife a monetary award in the amount of \$134,500.00. The court explained that the monetary award would counterbalance Husband’s dissipation of the assets in the Bank of America account.<sup>1</sup>

Husband took this timely appeal.

### **QUESTIONS PRESENTED**

Husband presents two questions, which we quote:

1. Did the circuit court abuse its discretion in granting the monetary award of \$134,500.00 to [Wife], which included \$85,000 in nonmarital property?
2. Did the circuit court erroneously fail to reflect \$56,698.61 in nonmarital funds that went into the purchase of the marital house?

Because we see no error or abuse of discretion, we shall affirm the judgment.

### **DISCUSSION**

#### **A. Standard of Review**

Husband challenges the court’s conclusion that the Lanham residence and the \$85,000.00 that he returned to his brother are marital property. “Ordinarily, it is a question of fact as to whether all or a portion of an asset is marital or non-marital property.” *Innerbichler v. Innerbichler*, 132 Md. App. 207, 229 (2000); *accord Collins v. Collins*, 144 Md. App. 395, 408 (2002). “Findings of this type are subject to review

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<sup>1</sup> The court also issued rulings on the questions of child custody, alimony, and attorneys’ fees. Because Husband has not challenged those rulings, they are not pertinent to this appeal.

under the clearly erroneous standard embodied by Md. Rule 8-131(c); we will not disturb a factual finding unless it is clearly erroneous.” *Innerbichler v. Innerbichler*, 132 Md. App. at 229; *accord Collins v. Collins*, 144 Md. App. at 408-09. If there is any competent, material evidence to support the circuit court’s findings, those findings cannot be clearly erroneous. *See, e.g., Figgins v. Cochrane*, 403 Md. 392, 409 (2008).

Husband also challenges the monetary award because it compensates Wife for an asset (the \$85,000.00) that, he says, was not marital property. This Court reviews decisions of whether to grant a monetary award, the amount of the award, and the terms of payment “to ensure consideration of the enumerated statutory factors, and for abuse of discretion.” *Hart v. Hart*, 169 Md. App. 151, 161-62 (2006). Under that standard, the appellate court “may not substitute [its] judgment for that of the fact finder, even if [it] might have reached a different result.” *Innerbichler v. Innerbichler*, 132 Md. App. at 230. An abuse of discretion is said to exist where no reasonable person would take the view adopted by the trial court, where the trial court acted without reference to any guiding rules or principles, where the ruling is clearly against the logic and effect of facts and inferences before the court, or where the ruling violates fact and logic. *Flanagan v. Flanagan*, 181 Md. App. 492, 522 n.11 (2008). Despite this deferential process of review, the appellate court must ensure that the trial court exercised its discretion based on the correct legal standards. *Id.* at 522 (citing *Alston v. Alston*, 331 Md. 496, 504 (1993)).

**B.**

Husband contends that the court erroneously ordered a monetary award of \$134,500.00, which included \$85,000 in what he claims are nonmarital assets. Husband premises his contention on the factual assertion that \$85,000 of the funds in the Bank of America account were proceeds from the sale of a property that he purchased with or for his brother in 2002, years before the marriage. He correctly observes that, in general, marital property does not include property acquired before the marriage. *See, e.g.*, Md. Code (1984, 2019 Repl. Vol.), § 8-201(e)(3)(i) of the Family Law Article (“FL”).

Husband’s argument fails to acknowledge that the circuit court rejected the factual premise on which it depends. On cross-examination, Husband first asserted that the account included funds that his brother had paid to compensate him for his assistance in purchasing the property. Husband agreed that the payment resulted from the settlement of a lawsuit between Husband and brother in 2020, yet Husband testified, a bit inconsistently, that his brother had been making the payments since 2016 or 2017. Husband also testified that he returned the money because he felt guilty about taking it. The circuit court expressly found that Husband’s uncorroborated testimony was “not credible.”

Giving due regard to the circuit court’s opportunity to judge the credibility of the witnesses, we cannot say that the finding was clearly erroneous. Md. Rule 8-131(c); *see also Collins v. Collins*, 144 Md. App. at 413 (“we will not find clear error in a ruling based on a credibility determination”). The court pointed, specifically, to the absence of a written ledger or account book to support Husband’s testimony. In addition, the court found it significant that Husband had drained the Bank of America account, which

contained the \$85,000.00, immediately after he was served with process in this case. We have no basis to set aside the circuit court’s well-supported factual conclusion.

**C.**

The circuit court found that the parties’ residence, in Lanham, was marital property. Consequently, it ordered that the residence be sold and that the proceeds be divided equally. Although Husband had used \$56,698.61 of his money to fund his purchase of the residence before the marriage (and before he gave Wife an undivided, one-half interest in the residence as a tenant by the entirety), the court declined to reimburse him for his contribution. Husband challenges that decision.

In reaching its decision, the circuit court relied on FL § 8-201(e)(2), which states that real property held by the spouses as tenants by the entirety is marital property unless it is excluded by a valid agreement. Because the court had no evidence of any such agreement, it concluded that the entire property was marital property. The court was correct.

In assailing the court’s decision, Husband argues for what is called a “source of funds” analysis in determining whether property held as tenants by the entirety is marital property. Under that analysis, an asset does not count as marital property to the extent that its acquisition is directly traceable to nonmarital assets. The General Assembly, however, rejected the “source of funds” analysis in 1994, when it added the current statutory provision stating that real property held by spouses as tenants by the entirety is marital property, unless excluded by valid agreement. *McGeehan v. McGeehan*, 455 Md. 268, 283-84 (2017). The legislative history of that provision clearly

states that it was intended to overrule *Grant v. Zich*, 300 Md. 256 (1984), in which the Court of Appeals had “ruled that in determining whether property held by the parties as tenants by the entirety should be characterized as marital property, a court must apply a source of the funds analysis, and that the portion of the property that is directly traceable to funds or other property acquired before marriage is nonmarital property.” *McGeehan v. McGeehan*, 455 Md. at 284 (quoting Senate Judicial Proceedings Committee, Bill Analysis of Senate Bill 41 (1994)).

In short, in Maryland, the source of funds analysis has not applied to property held as tenants by the entireties for almost 30 years. *Accord Karmand v. Karmand*, 145 Md. App. 317, 341 (2002) (“the source of funds theory does not apply to an interest in real property held by the parties as tenants by the entireties”). Perhaps unsurprisingly, then, Husband cites no case decided in the last 30 years. The circuit court did not err in declining to apply a source of funds analysis to property that, the parties agreed, was held as tenants by the entireties.

**JUDGMENT OF THE CIRCUIT COURT  
FOR PRINCE GEORGE’S COUNTY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**