Circuit Court for Montgomery County
Case No. 170357FL

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0906

September Term, 2024

TOAN VU

v.

CHAU DINH

Berger,
Nazarian,
Ripken,

JJ.

Opinion by Nazarian, J.

Filed: November 7, 2025

On June 7, 2024, the Circuit Court for Montgomery County granted Chau Dinh ("Wife") an absolute divorce from Toan Vu ("Husband"). On appeal, Husband challenges four aspects of the court's marital property division—the length of time the court took to issue its decision, the court's order that Husband transfer his interest in the marital home to Wife, the denial of Husband's request for a monetary award, and the denial of Husband's request for a division of Wife's retirement assets. We affirm.

I. BACKGROUND

Husband and Wife married on November 6, 1999. They had two children together. The parties separated in August 2019 when Wife left the marital home with the children.

On August 11, 2020, Wife filed an initial complaint for absolute divorce, custody, child support, and other relief. She amended her complaint on February 8, 2023. In the amended complaint, she alleged adultery, constructive desertion, cruelty, and separation. She requested, among other things, *pendente lite* and permanent child support and a monetary award. Husband answered the first complaint and filed a counter-complaint for absolute divorce, custody, child support, and other relief on October 9, 2020. He amended his counter-complaint on October 30, 2020. He asked the court to grant him an absolute divorce based on desertion, constructive desertion, or separation. He also asked the court for a monetary award, among other things.

The parties appeared in the circuit court on July 18 and 19, 2023, for a merits trial. The court heard testimony from Husband and Wife and from two additional witnesses who testified on Wife's behalf. On June 7, 2024, the court issued a written "Divorce, Child

Support, and Marital Property Opinion" and judgment that granted Wife a judgment of absolute divorce and detailed the court's findings and conclusions. Among the findings and conclusions, the court denied Husband's request for a monetary award and ordered him to transfer his title and interest in the family home, Hall Court, to Wife. The court also denied Husband's request to transfer half of Wife's retirement accounts to him.

Husband filed a timely notice of appeal. We include additional facts as appropriate below.

II. DISCUSSION

We can rephrase and consolidate both Husband's and Wife's Questions Presented[1]

[1] Husband's brief stated his Question Presented as:

> Did the trial court clearly err and abuse its discretion by ordering Husband to transfer to Wife his title and interest in their jointly owned real property located in Potomac, Maryland and by denying Husband's request for a monetary award and the transfer to him of ownership of certain retirement benefits of Wife to adjust the rights and equities of the parties in their marital property?

Wife responded to the issues raised in Husband's brief in one overarching Question Presented with three parts:

> I. Did the trial court abuse its discretion when it granted Wife a monetary award and denied Husband's request for a monetary award?
>
> a. Was 11 months too lengthy before the court issued its ruling and opinion?
>
> b. Did the court adequately explain its reasoning under 8-205 in granting Wife's request for a monetary award and denying Husband's request for a monetary award?

Continued . . .

into one issue: whether the circuit court erred in how it divided the parties' marital estate. It didn't.

A. The Circuit Court Did Not Err In How It Distributed The Marital Property.

Husband argues *first* that the court mis-valued the marital property by taking too long after trial to enter judgment. He argues *second and third* that the court abused its discretion by awarding Wife his interest in their marital home in lieu of a monetary award and by denying his request for a monetary award. And *fourth*, Husband asserts that the court erred by not transferring a portion of Wife's assets to him. Wife responds *first* that Maryland law and this record do not support Husband's complaints about the delay in ruling. She argues *second and third* that the court considered all the evidence and the appropriate factors carefully before dividing the property and denying Husband's request for a monetary award. *And finally*, Wife disputes that equity entitles Husband to a share of her retirement assets.

"[A]n appellate court . . . . 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." Md. Rule 8-131(c). When reviewing a trial court's decision to grant a monetary award based on the distribution of marital property, we review that decision against an abuse of discretion standard. *Reynolds v. Reynolds*, 216

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c. Did the court abuse its discretion in denying Husband's request to order Wife to transfer retirement benefits to him?

Md. App. 205, 218–19 (2014). A court abuses its discretion "'where no reasonable person would take the view adopted by the [trial] court'"; "when the court acts 'without reference to any guiding rules or principles'"; "when the ruling under consideration 'appears to have been made on untenable grounds,' [or] is 'clearly against the logic and effect of facts and inferences before the court'"; "when the ruling is 'clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result'"; "when the ruling is 'violative of fact and logic'"; or "when it constitutes an 'untenable judicial act that defies reason and works an injustice.'" *Id.* at 219 (*quoting North v. North*, 102 Md. App. 1, 13–14 (1994) (citations omitted)). "Within that context, 'we may not substitute our judgment for that of the fact finder, even if we might have reached a different result.'" *Richards v. Richards*, 166 Md. App. 263, 272 (2005) (*quoting Innerbichler v. Innerbichler*, 132 Md. App. 207, 230 (2000)).

When a divorcing party seeks a monetary award, the court undertakes a three-step analysis: (1) the court decides whether property is marital, Md. Code (1999, 2019 Repl. Vol.), § 8-203(a) of the Family Law Article ("FL"); (2) values the marital property, FL § 8-204(a); then (3) divides the property equitably, including a monetary award if appropriate, FL § 8-205. *See Alston v. Alston*, 331 Md. 496, 498–500 (1993); *Sims v. Sims*, 266 Md. App. 337, 354 (2025).

1. The passage of time between trial and judgment didn't cause Husband any prejudice.

Husband begins by taking issue with the length of time between the conclusion of trial and the entry of judgment, a period of approximately eleven months. Husband doesn't raise any issues about the status of the property as marital or non-marital or the value of the property as of the time of trial.[2] Instead, he complains that the delay between the close of evidence and the entry of judgment was unreasonable and "constitute[d] legal error under the first two steps. It also constitute[d] error under the third step." That, however, is as specific as his complaints in this regard get—neither in his briefs nor at oral argument, even when pressed, could Husband identify any prejudice he suffered as a result of the delay in ruling. That leaves us nothing to resolve on this point, and we decline the invitation to establish a rigid standard for how quickly judgments must issue.

At the second step of the marital property analysis, the trial court values the marital property "as of the date of the decree of absolute divorce based upon the evidence produced at trial." *Dobbyn v. Dobbyn*, 57 Md. App. 662, 676 (1984). This standard recognizes that there may be a delay between the close of evidence and the entry of judgment, and to require otherwise would be "highly impractical." *Green v. Green*, 64 Md. App. 122, 140 (1985); *Rosenberg v. Rosenberg*, 64 Md. App. 487, 507 (1985). Hence, "[w]e will not, nor should we, encourage hasty decision making in such cases." *Green*, 64 Md. App. at 140–41. At some point, a long enough delay might cause a meaningful gap between the value the evidence adduced at trial supports and the actual value at the time of judgment. At one end of the spectrum, we held in *Rosenberg* that one month between the close of evidence and the divorce judgment didn't disconnect the judgment value from the value supported

[2] Husband does not contend, for example, that either party acquired any other marital property during the eleven-month period. The only actual effect of the delay was the change in the value of retirement assets over that period.

by the evidence adduced at trial. 64 Md. App. at 507–08. At the other end, in *Doser v. Doser*, 106 Md. App. 329 (1995), the court relied on evidence that was at least two years old, rendering that evidence stale and violating the general rule that the value of marital property should be determined as of the date the divorce is entered. *Id.* at 348. And in *Fuge v. Fuge*, 146 Md. App. 142 (2002), the case was on its third appeal, so the monetary award had been entered three years earlier, and we required the circuit court to reconsider what was equitable in light of our "appellate decision." *Id.* at 145, 173, 177.

But unreasonableness for these purposes isn't reflexively a function of time. The relative impact of the time difference depends more on the property at issue and how time affects its value. *See Green*, 64 Md. App. at 141 ("[U]nreasonable delays between the close of the evidence and the rendering of the judgment may in some cases cause distortion in the valuation of certain highly volatile marital property, resulting in prejudice to one of the parties."). Investment assets are a good example: in *Dobbyn*, because of the volatility of some of the assets in controversy, namely, "stocks, securities and other interest bearing accounts," we held that the circuit court should have valued the asset as of the date of absolute divorce rather than the date of the divorce filing and that the thirteen-month period between those events made a difference in the correctness of the marital property award. 57 Md. App. at 674–77.

The evidence in this case closed on July 20, 2023 and the judgment issued on June 7, 2024, not quite eleven months later. Husband doesn't argue, and hasn't offered any evidence in the circuit court or here, that the values of any of the marital property changed from July 20, 2023 to June 7, 2024. He doesn't identify which property he believes may have changed in value during that time. He acknowledges in his brief that he isn't challenging the values the court received at trial and relied on to reach its ultimate conclusion. And at oral argument in this Court, when we asked how Husband believed he had been prejudiced by the delay, he couldn't articulate any form of prejudice. Because Husband doesn't identify which assets may have increased or decreased in value, we would be speculating to consider any potential volatility. And in any event, as Wife points out, the majority of the parties' marital estate consists of real property rather than stock portfolios. *Cf. Dobbyn*, 57 Md. App. at 676 ("As a consequence of the unique nature and sensitivity of the stock and commodity markets, these financial products are inherently endowed with a high propensity towards fluctuation.").

This leaves us with nothing: if Husband can't identify any sort of impact or prejudice from the delay between trial and judgment, we have no basis from which we could conclude that the eleven-month delay in this case was unreasonable. *See Rosenberg*, 64 Md. App. at 508 (court did not err in using retirement account value adduced at trial, where no objection was raised at trial when value was presented, and husband did not offer more recent valuation). By statute, the baseline valuation period is the time of judgment. The court must consider "the economic circumstances of each party at the time the award is to be made," FL § 8-205(b)(3), and that is what the circuit court did here. In the absence of any discernible (or even asserted) prejudice from the delay, there is no basis on which we could hold that the court abused its discretion by issuing its decision eleven months after the close of evidence.

2. The circuit court did not abuse its discretion in its division of the marital estate.

Husband argues that the property division in this case was "not justified by the trial court's own analysis," where the court "touched on the factors" but relied primarily on three in deciding to transfer to Wife Husband's interest in Hall Court. Wife counters that the court was authorized to transfer Husband's interest in Hall Court and that after walking through each of the FL § 8-205(b) factors, the court found three factors significant and that was all that was required. Wife is right.

When dividing marital property, a court may order one party to transfer ownership of an interest in property, such as retirement assets, personal property, or the marital home, to the other. FL § 8-205(a)(1). For a marital home, the court can carry out the division by ordering one party to transfer their interest in the home to the other, permitting one party to purchase the other's interest, or both:

> (2) The court may transfer ownership of an interest in:
>
> (i) a pension, retirement, profit sharing, or deferred compensation plan, from one party to either or both parties;
>
> (ii) subject to the consent of any lienholders, family use personal property, from one or both parties to either or both parties; and
>
> (iii) subject to the terms of any lien, real property jointly owned by the parties and used as the principal residence of the parties when they lived together, by:
>
> 1. ordering the transfer of ownership of the real property or any interest of one of the parties in the real property to the other party if the party to whom the real property is transferred obtains the

release of the other party from any lien against the real property;

2. authorizing one party to purchase the interest of the other party in the real property, in accordance with the terms and conditions ordered by the court; or

3. both.

FL § 8-205(a)(2). In deciding whether to order one spouse to transfer their interest in the marital home to the other or to grant a monetary award, the court must consider eleven factors that bear on how to allocate the home's value and how to effect the division:

(1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;

(2) the value of all property interests of each party;

(3) the economic circumstances of each party at the time the award is to be made;

(4) the circumstances that contributed to the estrangement of the parties;

(5) the duration of the marriage;

(6) the age of each party;

(7) the physical and mental condition of each party;

(8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;

(9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;

(10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and

(11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

FL § 8-205(b).

"'While consideration of the factors is mandatory, the trial court need not go through a detailed check list of the statutory factors, specifically referring to each, however beneficial such a procedure might be for purposes of appellate review.'" *Collins v. Collins*, 144 Md. App. 395, 410–11 (2002) (cleaned up) (*quoting Doser*, 106 Md. App. at 351). This is because the trial judge is presumed to know the law and is not required to list each factor that the judge considers mechanically so long as the record reveals whether and how the court considered and relied on these factors. *Hart v. Hart*, 169 Md. App. 151, 166 (2006) (*citing Malin v. Mininberg*, 153 Md. App. 358, 429–30 (2003)). Where the court does not "'provide at least some of the steps in [its] thought process[, it] leaves [itself] open to the contention that [the court] did not in fact consider the required factors.'" *Id.*

Before addressing how the court reached its conclusions in this case, we outline the actual division. Again, neither party disputes the circuit court's findings as to what property was marital or the values of any of the marital property, at least as of the date the record closed. The overall value of the entire marital estate was $3,938,962.22. That figure encompassed properties titled jointly, including the marital home (Hall Court) and rental properties (Marcus Court, Cedar Hills, Brandy Court, and Carr Avenue). The value of the jointly titled property was $2,537,567. The marital estate also included property titled in each party's name only. The marital property titled in Husband's name was valued at $726,400.13 and the marital property titled in Wife's name was $674,995.09.

The court decided that the parties were to sell the rental properties and divide the proceeds equally. In addition, the court directed Husband to transfer his interest in Hall Court to Wife. Altogether, the division of the parties' marital estate resulted in $1,564,227.13 for Husband:

$198,758.50 (half of the net value of Marcus Court)

+

$243,885.50 (half of the net value of Cedar Hills)

+

$226,600.50 (half of the net value of Brandy Court)

+

$168,582.50 (half of the net value of Carr Avenue)

+

$726,400.13 (marital property titled in Husband's name)

=

$1,564,227.13 (Husband's adjusted share of the marital estate)

Wife's portion of the marital estate was worth $2,374,753.09:

$198,758.50 (half of net value of Marcus Court)

+

$243,885.50 (half of the net value of Cedar Hills)

+

$226,600.50 (half of the net value of Brandy Court)

+

$168,582.50 (half of the net value of Carr Avenue)

+

$816,913 (the net value of the marital home)

+

$674,995.09 (marital property titled in Wife's name)

=

$2,374,735.09 (Wife's adjusted share of the marital estate)

The result was Wife receiving approximately 60% of the net marital estate: $2,374,735.09 (Wife's share) divided by $3,938,962.22 (value of all marital property) = 60.3%.

Neither party disputes that the court addressed each of the statutory factors. Their dispute turns on how the court assessed three of the statutory factors, but the court considered and made findings relating to all of them:

- Wife's monetary and non-monetary contributions were more significant than Husband's, FL § 8-205(b)(1);
- The overall marital estate value was valued at $3,938,962.22, with $726,400.13 in Husband's name only and $674,995.09 in Wife's, FL § 8-205(b)(2);
- Husband's share of all marital property is about 50.653%, whereas Wife's is 49.347%. For child support purposes, Husband's total actual monthly income is $12,916.67 and Wife's is $16,793.25, FL § 8-205(b)(3);
- Several factors caused the marriage to fail: a disagreement on fundamental lifestyle decisions, Husband's lack of involvement at times, and both parties' busy lifestyles, FL § 8-205(b)(4);
- The parties separated after 19¾ years of marriage and had been married for 23¾ years at the time of trial, FL § 8-205(b)(5);
- Husband was fifty-two years old and Wife was fifty years old at the time of trial, FL § 8-205(b)(6);
- Both parties were in good physical and mental health, FL § 8-205(b)(7);
- In general, both parties contributed to the acquisition of marital property, FL § 8-205(b)(8);

- There was insufficient evidence to make a finding about either Husband's or Wife's contribution to the acquisition of property held as tenants by the entireties, FL § 8-205(b)(9);
- The court did not award alimony or use and possession of personal property or the family home, FL § 8-205(b)(10); and
- The court did not consider any other factors, FL § 8-205(b)(11).

Husband argues that the court merely "touched on" these factors in its analysis. He contends that ascribing particular significance to three factors failed to explain adequately the court's decision to transfer Hall Court to Wife as part of the monetary award. The three factors with which Husband takes issue are factors 1, 4, and 5 of FL § 8-205(b): the contributions, monetary and nonmonetary, of each party to the family's well-being; the circumstances that contributed to the parties' estrangement; and their marriage duration. The court found these "[m]ost significant." As we detail below, the record supported the court's findings under each factor, the findings weren't clearly erroneous, and the court's conclusion to deny Husband's request for a monetary award fell well within its broad discretion.

a. <u>The record supported the court's findings under FL § 8-205(b)(1).</u>

This factor required the court to assess the "contributions, monetary and nonmonetary, of each party to the well-being of the family." FL § 8-205(b)(1). The court found that Wife's contributions were "more substantial than Husband's, despite there being evidence that Husband also made monetary and nonmonetary contributions to the family." The record is replete with evidence supporting this conclusion.

The court began by acknowledging how, early in their marriage, Husband's and Wife's annual earnings were $40,000 and $32,000, respectively. The record supported this. The court highlighted how both parties maintained their respective employment during the marriage, although, for Husband, he had intermittent periods of unemployment. Wife helped Husband obtain his current role at the U.S. Patent and Trademark Office. Wife testified to this and Husband didn't refute it.

As for the parties' real estate portfolio, the court noted that Wife was the "significant contributor to the real estate investments by doing most of the renovation work to flip the properties." Wife was not the only one who testified about this—her witnesses corroborated it. Dimitri Apostolopoulos, the commercial real estate agent who helped the parties with all their real estate transactions, testified that he worked with Wife 95% of the time. Dong Bui, who performed all the repairs for the parties' properties, testified that he only ever worked with Wife, not Husband. Wife testified that she did most of the work. This included managing the properties, ensuring that they were up to code, listing them for sale, showing them to potential tenants, screening those tenants, and ensuring that the rentals complied with state regulations. She also testified that Husband identified some properties. Husband testified that he helped identify some properties, took pictures of the homes, and posted them for sale on Craigslist. He said that he helped show potential tenants the homes and procured appliances for the rentals. But the evidence supported the court's conclusion that Wife's contributions were more substantial than Husband's.

The court also noted that the parties lived in the marital home as strangers to avoid hurting the children. That is exactly what Husband testified. The court highlighted how Wife handled most of the domestic chores except during her pregnancies, when Husband contributed more to those chores. Wife testified that she undertook all the household chores, including cooking and cleaning, both before and after the parties had their children. She also testified that she handled the chores even when Husband was unemployed. Mr. Bui testified that he observed some of these chores, including watching Wife pick up the children from school. Mr. Apostolopoulos also testified that he observed Wife "spearheading" the domestic work. Wife also testified that during her pregnancies, Husband helped with the chores. And he, too, testified as much. None of these findings were clearly erroneous.

Husband argues that a "qualitative discussion" by the circuit court under FL § 8-205(b)(1) did not justify the "quantitative result" of Wife receiving the full net value of Hall Court. What he really is arguing, against the backdrop of correct factual findings, is that the court should have weighed the facts differently. But balancing the equities is a matter commended to the court's "broad discretion." *Hart*, 169 Md. App. at 161; *see also Caccamise v. Caccamise*, 130 Md. App. 505, 521 (2000) ("It is well settled that 'a trial court decision in granting a monetary award will not be overturned unless the judgment is clearly erroneous . . . .'" (*quoting Gallagher v. Gallagher*, 118 Md. App. 567, 580–81 (1997))).

The "quantitative result" that the court reached after dividing the property according to title was that Husband's share of the marital property was approximately 50.653%, whereas Wife's was approximately 49.347%. The court stated this finding as part of its consideration of factor 3, each party's economic circumstances at the time the award is to be made. FL § 8-205(b)(3). Had the court divided Hall Court equally, as it did with their rental properties, Husband's share would have been $1,995,183.63 and Wife's share would have been $1,903,778.59. Those values, divided by the value of the entire marital estate, $3,938,962.22, result in shares of 50.653% and 49.347%, respectively. That finding was not clearly erroneous.[3] By awarding Wife Hall Court, the circuit court was concluding that the 50.653%-49.347% split was inequitable under the circumstances of this case. *See Hart*, 169 Md. App. at 160 ("Granting a monetary award allows a court 'to counterbalance any unfairness that may result from the actual distribution of property acquired during the marriage strictly in accordance with its title.'" (*quoting Ward v. Ward*, 52 Md. App. 336, 339 (1982)); *see also* FL § 8-205(a) (to adjust an inequity created by dividing the marital property by title, the court has three options: transfer one party's ownership interest in certain property, grant a monetary award, or both).

The court found this "quantitative result" more equitable given that Wife was the only party paying down the mortgage on Hall Court during the parties' separation, despite the fact that Wife and the children didn't live there from August 2019, the parties' separation, to April 2023. Even after Wife returned to the marital home in April 2023, she

[3] In light of our earlier discussion about the time between the close of evidence and the court's judgment, Section A.1., Husband's timing arguments under FL § 8-205(b)(3)—the economic circumstances of each party at the time the award is to be made—don't affect this analysis.

continued to pay that same mortgage, and again was the only one paying. Around that time, the parties agreed and signed an agreement that Husband would move into Marcus Court and pay the mortgage there, while Wife would continue paying the mortgage on Hall Court. Husband didn't make the agreed-upon payments, while Wife did. And this was in addition to her already paying the mortgage on the house she was occupying.

Wife's contributions to the well-being of the family also were "most significant" to the court because, in addition to her domestic work efforts, the court found that she was the significant "nonmonetary contributor" to the parties' real estate portfolio. That portfolio comprised \$2,537,567, or 64% of their marital estate: \$2,537,567 (the total value of the parties' real estate) divided by \$3,938,962.22 (the total value of the parties' marital estate). On balance, the court determined that equity mandated this result, given Wife's significant contributions to growing the parties' marital estate.

b. <u>The record supported the court's findings under FL § 8-205(b)(4).</u>

The fourth factor required the court to assess the "circumstances that contributed to the estrangement of the parties." FL § 8-205(b)(4). The court found that "a constellation of symptoms caused the marriage's demise": the couple's disagreements on "fundamental lifestyle decisions" and Husband's lack of involvement at times, coupled with their busy lifestyles, took a toll on their relationship.

Some of the symptoms leading to the marriage's demise that the court identified were Husband's verbal and emotional abuse, as Wife testified. The court noted that Wife described how Husband choked her, threw water on her, put her clothes in the driveway for Husband to drive over, and deprived her of sleep. Wife also revealed how Husband threatened her and their children and poured water on Wife and the children while all three were asleep. At times, Husband ranted in the early morning hours that "I know you wake up at 4:00 or 5:00 in the morning take care of domestic issues before you leave home at 5:00, so I'm going to do this so that you would not be able to sleep and then you would die in a car crash." Husband did not refute this.

The court found as well that Husband FaceTimed other women in front of Wife and told Wife how other women wanted him. This came directly from Wife's testimony. The court also credited Wife's testimony about Husband partying often when he was not home and not seeing the parties' children. This was all evidence that Wife presented to demonstrate why the parties' marriage failed. Other than Husband denying allegations of having committed adultery before the parties' separation, Husband offered no evidence on why the marriage failed. That said, as the court noted, Husband did stipulate to adultery as grounds for divorce, and the record supported that stipulation. Although Husband testified that he and Wife agreed to live in the house "as strangers," that arrangement acknowledged that the marital relationship wasn't working. The court's findings under this factor were not clearly erroneous.

Husband argues that there needed to be a nexus between a spouse's conduct and the estrangement before the court could rely on this factor to favor Wife. Again, the court's findings under FL § 8-205(b)(4) were not clearly erroneous, so again, Husband really is disputing the relative weight the court gave to this factor. There need not be a specific connection between his conduct and the court's decision to deny him a monetary award—all that was required was that the court consider the factor. *See Mount v. Mount*, 59 Md. App. 538, 553–54 (1984) (reversing the circuit court when it did not consider this factor despite overwhelming evidence that only one party was solely responsible for the marriage's deterioration). The court's findings supported its conclusion and were not clearly erroneous, and that is enough to affirm on this factor. *See Court v. Court*, 67 Md. App. 676, 689–90 (1986) (affirming monetary award where court considered FL § 8-205(b)(4) amongst other factors and made findings under that factor that were not clearly erroneous), *superseded by rule on other grounds*, Md. Rule 9-207, *as stated in Flanagan v. Flanagan*, 181 Md. App. 492 (2008).

c. <u>The record supported the court's findings under FL § 8-205(b)(5).</u>

The fifth factor required the court to assess the "duration of the [parties'] marriage." FL § 8-205(b)(5). The court here found that the parties had been married for 19 ¾ years at the time of separation and 23 ¾ years at the time of trial. This fact was not in any serious dispute. The parties married on November 6, 1999, and separated in August 2019. Although Husband testified that the two began living in the house as strangers in August 2018, he also testified that they separated in August 2019. The trial started on July 19, 2023. The record supported the court's findings.

Husband argues that although the court didn't specify the direction in which this factor swayed the court, "a reasonable inference regarding this factor is that it favors equal division where the marriage is of long duration." Not so. We have said, as Husband reminds us, that "[u]pon the dissolution of most long term marriages, the trial judge divides the marital property equally." *Caccamise*, 130 Md. App. at 521. To the extent that division reflects common practice, it nevertheless isn't required. *Id.* (*citing Deering v. Deering*, 292 Md. 115, 131 (1981)).

In *Caccamise*, a case on which Husband relies, we held that the trial court had abused its discretion by relying solely on the work the husband put into the family business, the ages of the parties, and "all other relevant factors" to determine the monetary award. 130 Md. App. at 521–22. We reasoned that the court hadn't explained what other work the husband performed beyond what would be expected from him ordinarily as the only working spouse in the relationship. *Id.* at 522. As to the ages, the parties were fifty-one and fifty-two, respectively, but we didn't see why that was significant to the court's conclusion. *Id.* Finally, the court's categorical inclusion of "all other relevant factors" was inadequate for us to assess whether there was an abuse of discretion. *Id.*

In contrast, the court in this case made findings under all the § 8-205(b) factors and explained how the evidence supported those findings. Those findings were not clearly erroneous. And the court walked through each factor and highlighted the three it found most significant. Furthermore, the court's findings supported a 60-40 split in Wife's favor. *Cf. Long v. Long*, 129 Md. App. 554, 577–79 (2000) (monetary award that left Wife with less than 20% of marital estate, despite Wife's health, unemployment, lack of marital fault, and contributions to Husband acquiring over 35% of marital assets vacated). So although the result was not an equal division of the property, the court set forth the factors that influenced its unequal division and explained how the result was equitable. *Cf. Caccamise*, 130 Md. App. at 522; *Hart*, 169 Md. App. at 166–67 (because record in that case did not indicate that circuit court even considered statutory factors for a monetary award, let alone used the term "monetary award," vacate and remand was appropriate); *Flanagan*, 181 Md. App. at 522 (monetary award that resulted in one party receiving 90% of the marital estate without the court explaining its rationale adequately vacated).

Husband argues that the court's commentary on the remaining factors "does not reflect any finding favorable to Wife that would serve as a basis for a monetary award or transfer of Hall Court to her." But aside from the argument that the court's findings under those other factors were clearly erroneous, there's no argument that any additional degree of proof was necessary to support the court's division of the marital property. It's also not true that the court "did not expressly mention any other statutory factor that influenced the real property transfer determination." Although it found three factors most significant, it considered the remaining factors. The court walked through each and listed its findings, then exercised its discretion in dividing the property, denying Husband's request for a monetary award, and ordering Husband to transfer his interest in the marital home to Wife. *See* FL § 8-205(a). We discern no abuse of discretion in any of these conclusions.

d. <u>The court considered Wife's post-separation contributions to her retirement accounts correctly when distributing the marital estate.</u>

Husband argues *next* that the circuit court erred by not transferring a portion of Wife's retirement accounts to him. He continues that the court misapplied the FL

§ 8-205(b) factors by relying on only the eighth and ninth factors, although the ninth factor didn't apply. He adds that the increase in value in Wife's Thrift Savings Plan ("TSP") and Charles Schwab 401(k) ("401(k)") accounts in the time after separation could have been due to her contributions or due to market conditions. Wife responds that Husband's analysis attempts to decouple the retirement analysis from the monetary award analysis.[4] Under the totality of the parties' circumstances, Wife submits, the court did not need to find which portions of Wife's retirement accounts were solely due to her contributions.

Initially, Wife is right about Husband's approach to the analysis. To transfer an ownership interest in one spouse's retirement assets, the circuit court must perform the analysis required by FL § 8-205(a)(2) and consider the § 8-205(b) factors. As part of that analysis, the court can give more weight to different factors depending on the circumstances of the case. *Alston v. Alston*, 331 Md. 496, 507 (1993). In *Alston*, the Supreme Court of Maryland highlighted how an equal division of marital property acquired after separation and without any effort from the noncontributing spouse may be inequitable:

> Where one party, wholly through his or her own efforts, and without any direct or indirect contribution by the other, acquires a specific item of marital property after the parties have separated and after the marital family has, as a practical matter, ceased to exist, a monetary award representing an equal division of that particular property would not ordinarily be consonant with the history and purpose of the statute.

[4] Wife argues as well that Husband ignores how he retained $200,000 more in value of his nonmarital property than Wife. But there is no mention of $200,000 in the circuit court's findings of nonmarital property or elsewhere in the record.

Id. Circuit courts must consider the extent to which a spouse's efforts "led to [the] acquisition of property or an increase in its value without any monetary or non-monetary contribution by the other spouse after the parties separated" when "determining what would constitute an equitable monetary award." *Wilen v. Wilen*, 61 Md. App. 337, 354–55 (1985). And this applies with full force to the appreciation of a retirement asset. *See Quinn v. Quinn*, 83 Md. App. 460, 466–67 (1990) (monetary award where circuit court failed to consider ex-husband's post-separation efforts that increased value of, among other things, ex-husband's retirement fund vacated).

In this case, though, we see no abuse of the circuit court's discretion. The parties don't dispute the values the court assigned to Wife's retirement assets. Husband's qualm with the court's conclusion is its reliance on two FL § 8-205(b) factors: FL § 8-205(b)(8) and FL § 8-205(b)(9). Under the former, the court found that both parties acquired retirement assets in their individual names. The record supported that finding. Although the latter factor indeed concerned the parties' contributions toward acquiring the property that they held as tenants by the entireties, which was only the real estate, the court stated that it was considering that factor, along with the eighth factor, "among other factors." Put another way, the court conducted its monetary award analysis with the factors outlined in FL § 8-205(b) in mind. *See Flanagan*, 181 Md. App. at 533 ("'[A] trial judge's failure to state each and every consideration or factor' does not, without demonstration of some improper consideration, 'constitute an abuse of discretion, so long as the record supports a reasonable conclusion that appropriate factors were taken into account in the exercise of discretion.'" (*quoting Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 445 (2003))); *see also Quinn*, 83 Md. App. at 466 ("In arriving at a monetary award, the trial judge is not required to 'articulate every step in [their] thought processes.' The trial judge is presumed to know the law and to apply it correctly." (citations omitted)).

And indeed, the circuit court knew and applied the law correctly in this case. With regard to the TSP and 401(k) accounts, the court noted that all of the increases in those accounts were marital property. But that did not, by itself, mean that those increases were subject to equitable division. *See Alston*, 331 Md. at 507. The court noted that Wife's accounts "significantly increased," specifically by 88%. Wife produced evidence of the accounts' respective balances around the separation date and during the month of trial. And the court found that Husband contributed nothing toward those balances. Husband doesn't dispute that Wife's contributions increased the accounts' value, but says that was just one possibility. It was not unreasonable, though, for the court to afford Wife's contributions, as one factor among the others, more weight. And because "not all marital property necessarily will be subject to equitable distribution when awarding a monetary award," the court found it more equitable for each party to retain their respective retirement assets. *Sims*, 266 Md. App. at 359; *see Wilen*, 61 Md. App. at 355 ("How much weight should be given to each factor in each case is a matter entirely within the [court's] sound discretion.").

We see no abuse of discretion in these judgments and affirm the division of property and denial of Husband's request for a monetary award.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. APPELLANT TO PAY COSTS.