

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CASSIDY A. MOORE GREENE, ¹	§	
	§	No. 573, 2013
Respondent Below,	§	
Appellant,	§	Court Below—Family Court of
	§	State of Delaware in and for
v.	§	New Castle County
	§	
FRANK W. GREENE,	§	File No. CN13-01243
	§	Pet. No. 13-01500
Petitioner Below,	§	
Appellee.	§	

Submitted: September 12, 2014

Decided: November 25, 2014

Before **HOLLAND, RIDGELY and VALIHURA**, Justices.

ORDER

This 25th day of November 2014, upon consideration of the parties' briefs and the Family Court record, it appears to the Court that:

(1) The appellant, Cassidy A. Moore Greene (hereinafter "Wife"), filed this appeal from the Family Court's August 27, 2013 order that decided issues of property division and alimony ancillary to the parties' divorce. Wife also appeals the Family Court's September 24, 2013 order that granted in part and denied in part Wife's motion for reargument. Having found no merit to the appeal, we affirm the judgment of the Family Court.

¹ By Order dated October 22, 2013, the Court *sua sponte* assigned pseudonyms to the parties. Del. Supr. Ct. R. 7(d).

(2) In an appeal from an order dividing marital property and determining alimony, this Court reviews the facts and the law as well as the inferences and deductions made by the Family Court.² We will not disturb findings of fact unless they are clearly wrong and justice requires that they be overturned.³ Conclusions of law are reviewed *de novo*.⁴ If the Family Court has correctly applied the law our standard of review is abuse of discretion.⁵ When the determination of facts turns upon the credibility of witnesses who testified under oath before the trial judge, this Court will not substitute its opinion for that of the trial judge.⁶

(3) The parties in this case married in February 2011, separated in July 2012, and divorced in March 2013. It was the second marriage for both. The appellee, Frank W. Greene (hereinafter “Husband”), testified that he was married to his former wife for forty-one years until her death in 2009. Wife testified that she was previously married to a West African prince and was divorced in 1982.

(4) The Family Court held a hearing on August 13, 2013. In the August 27, 2013 order that followed, the court (i) denied Wife’s request for

² *Forrester v. Forrester*, 953 A.2d 175, 179 (Del. 2008).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Wife (J.F.V.) v. Husband (O.W.V.)*, 402 A.2d 1202, 1204 (Del. 1979).

alimony, (ii) valued and divided the parties' interests in a condominium (hereinafter "condo"), and (iii) allocated responsibility for the payment of a \$152,000.00 home equity loan.

(5) In her motion for reargument of the August 27, 2013 order, Wife claimed that the Family Court erred (i) when denying her request for alimony, (ii) when placing a value on the condo in the absence of an expert opinion, (iii) when awarding her only 5% interest in the condo, and (iv) when holding her responsible for half of the home equity loan. Also, Wife claimed that the court did not address her request for personal property. In its order of September 24, 2013, the Family Court denied all of Wife's claims except one. Agreeing that it erred when valuing the condo, the court revalued the condo and amended the August 27, 2013 order accordingly.

(6) In her first claim on appeal, Wife argues that the Family Court erred when ruling that she was ineligible for alimony. To receive alimony, a person must prove that "he or she is a dependent party" under title 13, section 1512 of the Delaware Code. Under that section, a person may be awarded alimony only if the person "[l]acks sufficient property, including any award of marital property made by the Court, to provide for his or her reasonable needs"⁷ and "[i]s unable to support himself or herself through

⁷ 13 Del. C. § 1512(b)(2).

appropriate employment.”⁸ Also, absent unusual circumstances not present here, a person receiving alimony must make affirmative, good faith efforts to seek such employment.⁹

(7) In this case, the Family Court determined that Wife was *not* dependent and therefore was not eligible for an award of alimony. The court made its dependency determination based, in part, on Wife’s testimony about her income circumstances, which the court found “vague, very general and unspecific.” The court summarized Wife’s testimony as follows:

According to Wife, she currently resides in an apartment leased by Husband in Washington, DC with a monthly rental of \$2,175.00. Wife reports that she is currently not employed but would like to open a paint-your-pet business. In the past, she claims to have been married to a Prince and worked in Beverly Hills, California, as a medical referral person. Apparently, she referred patients to certain medical centers and physicians. She was friends with prominent entertainers and celebrities. Her most recent position was as a broker working with both lenders and investors for improvements on the infrastructure of African countries and Jamaica. She stated she had personal contacts with the World Bank and has some projects pending for which she hopes to receive significant commissions.

When questioned how she has been supporting herself since these parties separated, she reported

⁸ 13 Del. C. § 1512(b)(3).

⁹ 13 Del. C. § 1512(e).

that she has received help from her mother and her sister. Wife testified that her sister is married to the Prince of Zaire who she reported to be the third wealthiest person in the world. She also stated that she and her mother are raising her sister's children in America where they attend school. Wife argues that it is not fair for her family to support her.

(8) When denying Wife's request for alimony, the court found that Wife was "more than capable of supporting herself," and that she had "made no effort [to become self-supporting], other than whatever she is doing in her brokerage business, since her separation slightly over one year ago." Moreover, the court found that "Wife should have considerable funds remaining from her home equity loan withdrawals," noting that it had "allowed her to retain \$76,000.00."

(9) Under title 13, section 1512, the Family Court has broad powers to determine what, if any, alimony is to be awarded.¹⁰ Having reviewed the parties' positions on appeal and the Family Court record, we conclude that Wife's claims challenging the denial of alimony are without merit. There is no basis for disturbing the factual findings of the Family Court and no errors of law. The court's denial of alimony reflects due consideration of the governing statute, and the court's deductions and inferences are the product of a logical and deductive reasoning process. On

¹⁰ *Thomas v. Thomas*, ___ A.3d ___, 2014 WL 4854202, at *2 (Del. Oct. 1, 2014).

appeal, Wife has failed to identify any factual findings or inferences made by the Family Court that are clearly wrong, unsupported by the record or illogical.

(10) In her second claim on appeal, Wife argues that the Family Court erred when holding her responsible for repaying half of the parties' home equity loan. Wife argued in the Family Court that her access to, and use of, the credit were a gift from husband. On appeal, Wife further argues that Husband "is in a far better position to repay the loan, since [she] was unemployed and making no income when the debt was incurred." Also, Wife argues that the Family Court had no authority to hold her responsible for the home equity loan because the loan was secured by out-of-state non-marital property that was owned by Husband and his daughter.

(11) Under title 13, section 1513 of the Delaware Code, the Family Court has broad powers to allocate assets and debts ancillary to a divorce.¹¹ In this case, the court ruled that both Husband and Wife were responsible for repaying the home equity loan because both parties signed the loan documents. Moreover, the court determined that the home equity loan, which was "signed for by both parties but totally utilized by Wife . . . for her sole use and enjoyment," must be repaid 50% by Wife and 50% by Husband,

¹¹ *Id.*

because Husband had “gifted [Wife] access to the funds. Each owes \$76,000.00 to the [the lender].”

(12) Having reviewed the parties’ positions on appeal and the Family Court record, we conclude that Wife’s claims related to the allocation of responsibility for the home equity loan are without merit. There is no basis for disturbing the factual findings of the Family Court and no errors of law. The court’s ruling reflects due consideration of the governing statute, and the court’s deductions and inferences are the product of a logical and deductive reasoning process. On appeal, Wife has failed to identify any factual findings or inferences made by the Family Court that are clearly wrong, unsupported by the record or illogical.

(13) Wife’s third claim on appeal challenges the Family Court’s valuation and division of the condo. Wife claims that the Family Court erred when valuing the condo in the absence of an expert opinion and when awarding her only 5% interest in it. Wife also claims that the court erred when it ruled that Husband could defer paying Wife for her share in the condo until August 1, 2014, and, if necessary, use Wife’s share in the condo to partly pay off Wife’s share of the home equity loan.

(14) The record reflects that Husband purchased the condo with his former wife in 2008. Husband added Wife’s name to a new deed in 2011.

When valuing the condo and determining the parties' interests in it, the Family Court ruled:

It is undisputed . . . that 100% of the purchase price for the [condo] came from Husband. Husband has also been solely responsible for all taxes and condominium fees since 2008 and for the slightly over one year that these parties actually resided together. In light of the marriage's short duration and Husband's sole contribution toward purchasing and maintaining this vacation home, the Court awards Husband 95% of the equity in this property. In recognition of the gift made by husband to Wife . . . the Court awards her 5%. The only evidence of fair market value is Husband's reported value of \$700,000.00. Husband, therefore, owes Wife \$35,000.00 for her interest in the property.

(15) Later, when ruling on Wife's motion for reargument, the court amended its \$700,000.00 valuation, after determining that it had overlooked Wife's reported value of \$1,000,000.00. In the absence of an appraisal the court "[found] it fair to split the difference between the two opinions of the parties and revalue [the condo] at \$850,000.00," which "increase[d] Wife's interest in the property to \$42,500.00."

(16) The court also granted Husband the right to defer paying Wife for her share of the condo until August 1, 2014. The court ruled that if, prior to August 1, 2014, the lender sought the full amount of the \$152,000.00 home equity loan from Husband or foreclosed on Husband's property that

was pledged as collateral, Husband could use Wife's \$42,500.00 interest in the condo to partly pay Wife's \$76,000.00 share of the home equity loan.

(17) Having reviewed the parties' positions on appeal and the Family Court record, we conclude that Wife's claims related to the valuation and distribution of the condo, and Husband's right to defer payment and to use Wife's interest in the condo to partly pay her share of the home equity loan, are all without merit. There is no basis for disturbing the factual findings of the Family Court and no errors of law. The Family Court's decision reflects due consideration of the governing statute, and its deductions and inferences are the product of a logical and deductive reasoning process. On appeal, Wife has failed to identify any factual findings or inferences made by the Family Court that are clearly wrong, unsupported by the record or illogical.

(18) In her last claim on appeal, Wife contends that the Family Court failed to consider and rule on her claim for "personal property." The hearing transcript reflects that Wife asked for property that she said was in Husband's possession, namely clothing, jewelry, bedroom furniture, and a Steinway baby grand piano that Wife claims she and Husband bought together in Delaware. Wife testified that the clothes, jewelry, and piano

were at the house she shared with Husband in Wilmington, and that the bedroom furniture was in the condo.

(19) Husband disputed Wife's testimony *in toto*. Denying that he and Wife shared a house in Wilmington, Husband testified that he and Wife lived in separate residences during the course of their marriage, he in a house in Wilmington, and she in an apartment in DC. Husband denied having any of Wife's personal property at the house in Wilmington, and he denied that there was bedroom furniture that was marital property at the condo. Husband testified that the bedroom furniture in the condo was the same bedroom furniture that he had prior to the marriage. Husband also denied that Wife had any claim to the Steinway baby grand piano. Husband testified that he purchased the piano thirty years ago in California.

(20) Noting the discrepancy in the parties' testimony about the piano, the Family Court advised Wife that she had the burden of proving her claim that the piano was marital property, and that she had not sustained that burden.¹² We agree with the Family Court's ruling on the piano and further conclude that Wife did not sustain her burden of proof with respect to the clothes, jewelry, and furniture. With the parties' testimony in equipoise, and

¹² In the equitable division of marital property, the party making a request for property has the burden of proof by a preponderance of the evidence. *Husband R.T.G. v. Wife G.K.G.*, 410 A.2d 155, 159 (Del. 1979).

in the absence of any competent credible evidence in support of Wife's personal property claim, we conclude that the Family Court's implicit ruling maintaining the *status quo* of the parties was not an abuse of discretion.¹³

(21) Finally, Wife's contention that the Family Court failed to rule on her personal property claim is not supported by the record. As previously noted, Wife's personal property claim was one of several claims that the Family Court rejected as without merit when ruling on her motion for reargument.¹⁴

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

¹³ *Accord Jorett v. Jorett*, 1994 WL 665246 (Del. Nov. 21, 1994) (awarding parties the assets each possessed at the time of the hearing after concluding that parties had failed to provide the court with evidence to grant ancillary relief beyond the *status quo* at the time of the hearing).

¹⁴ *See supra* ¶ (5).