UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2445

September Term, 2015

ANN McGEEHAN

v.

MICHAEL McGEEHAN

Nazarian,
Arthur,
Friedman,

JJ.

Opinion by Friedman, J.

Filed: October 26, 2016

*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.

Ms. Daniels (formerly McGeehan)[1] came into the marriage with more money than her ex-husband and believes she should exit the marriage in the same way. During the 18-year marriage, however, the couple lost millions in unwise stock investments, lived an elaborate lifestyle in the United States and Europe, and produced eight children. The trial court properly considered the entire history of the marriage—not just how the parties entered the marriage—and determined that over its course the parties equally contributed to the marriage and family, and divided the marital property accordingly.

BACKGROUND

Michael McGeehan and Ana Portell Daniels married in 1996. Ms. Daniels brought a significant investment portfolio into the marriage. Mr. McGeehan came into the marriage without financial resources, but with an interest in investing money.

Sometime after they married, Mr. McGeehan convinced Ms. Daniels to let him manage her portfolio. Although it is not clear where the money went or how long it took, in the end, Mr. McGeehan either traded away or spent the entirety of Ms. Daniels's investment portfolio. In 2005, Ms. Daniels discovered the loss. She was pregnant at the time with the parties' fourth child and was, understandably, upset. To compensate Ms. Daniels for frittering away her investment portfolio and accruing a tax liability of over $500,000 in her name, Mr. McGeehan transferred three pieces of real property to Ms. Daniels and they were re-titled in Ms. Daniels's name alone. Mr. McGeehan also promised

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[1] With the Judgment of Absolute Divorce, the Circuit Court for Howard County restored the Appellant's birth name, Ana Portell Daniels. We will refer to her by that name.

never to trade stocks again. Ms. Daniels later obtained a monetary gift from her mother and grandmother, which she used to pay off the mortgages on two of the properties.

In 2002, Mr. McGeehan announced that he had a secret new job and, as a result, the family needed to move to Europe. They lived in Europe for the next 8 years. Mr. McGeehan worked for the United States Government and operated several businesses in Europe in conjunction with his work. While in Europe, the couple had several more children and Ms. Daniels, who had quit her job as a patent attorney in Washington, D.C. to move, worked as a stay-at-home mother of the family's growing number of children.

Throughout the parties' marriage, and even after Ms. Daniels discovered the loss of her investment portfolio, Mr. McGeehan controlled the family finances and Ms. Daniels was not allowed to see the bank statements or to know how much money Mr. McGeehan earned. Mr. McGeehan, however, frequently assured Ms. Daniels that their finances were stable.

The parties and their children returned to the United States in 2010. Mr. McGeehan continued to work for the U.S. Government, although it appears to have been in a different capacity. After giving birth to their eighth and final child, Ms. Daniels attempted to work but was unable to find permanent employment.

In 2014 the parties' marriage dissolved. Mr. McGeehan left the family home.

Mr. McGeehan filed for divorce in the Circuit Court for Howard County in December of 2014. Discovery was complicated and time consuming in part because the U.S. Government noted an interest in the case and in maintaining the secrecy of Mr.

McGeehan's employment records. The resulting disputes were only resolved when the circuit court appointed a special discovery magistrate. The divorce trial finally began at the end of November 2015, and, on December 11, 2015, the parties were awarded a judgment of absolute divorce.

The judgment of absolute divorce awarded the parties joint legal custody and shared physical custody of the children. The oldest child chose to live with Mr. McGeehan but the seven other children live with Ms. Daniels and have regular visitation with Mr. McGeehan. Mr. McGeehan was ordered to pay $1,600 a month in child support. Ms. Daniels was ordered to pay Mr. McGeehan a monetary award of $230,000. Ms. Daniels was also awarded $15,303 for discovery costs and $7,000 for her attorney's fees related to discovery. Finally, the trial court ordered that the family home be sold and the proceeds divided between the parties.

Ms. Daniels appealed.

DISCUSSION

Ms. Daniels raises five issues on appeal: (1) the trial court should not have allowed the U.S. Government to participate to the extent it did in the divorce proceedings; (2) the trial court incorrectly found that Ms. Daniels was voluntarily impoverished; (3) the trial court should have awarded her use and possession of the family home; (4) the trial court erred in the disposition of marital property and grant of a monetary award; and (5) the trial

court should have voided two deeds of trust Mr. McGeehan placed on the family home. We address each of these issues in turn.[2]

1. Federal Government Participation in the Divorce Proceedings

Mr. McGeehan was an employee of the U.S. Government. We infer from all of the secrecy (but, of course, don't know) that he worked for one of the alphabet soup of federal

[2] Ms. Daniels has moved to strike portions of Mr. McGeehan's brief because of alleged violations of our appellate rules, specifically Rule 8-504(a)(2), which governs the content of an appellee's statement of the case, and Rule 8-504(a)(4), which governs the content of an appellee's statement of facts. The defects, if they are indeed defects, in Mr. McGeehan's brief are matters of degree, could have been addressed in Ms. Daniels's reply brief, and, in any event, do not merit the severe sanction recommended. The over-the-top tone of her motion to strike reminds us of the old adage that people who live in glass houses, shouldn't. There are more significant violations of the Rules in Ms. Daniels's brief. First, a motion to exceed the page limitation contains within it the implicit promise to the Court that there will be something in the oversize brief that merits the additional words. Here, however, all we got was a failure to edit. Second, Rule 8-112(c)(1) requires the use of no less than 13-point font in text and footnotes. Moreover, the recent change from page limits to word limits were adopted, in part, to deincentivize counsel from putting arguments in footnotes, where (the old theory went) smaller fonts and single-spacing allowed more argument. Ms. Daniels's 6-point font in her footnotes violates the Rules and tests both the eyesight and patience of this panel. Third, despite filing an outrageously oversized opening brief, Ms. Daniels's first argument in her reply brief (that the trial court erred in finding the Pyrenavest entities to be nonmarital property) wasn't included. This violates a bedrock rule of appellate practice, that an appellant cannot raise an issue for the first time in the reply brief. *E.g.*, *Gazunis v. Foster*, 400 Md. 541, 554 (2007). That's because raising an issue for the first time in the reply brief deprives the appellee of an opportunity to respond. Finally, her opening brief failed to contain a certification that complies with Rule 8-503(g) leading to significant confusion at oral argument. Despite all of this, however, the only sanctions that we will impose on Ms. Daniels are (1) that we will not consider her argument that the trial court erred in considering the Pyrnavest entities as nonmarital property; (2) the loss of argument time occasioned by the confusion surrounding her lack of a proper Rule 8-503(g) certification; and (3) our warning that this is not how appellate litigation ought to be conducted.

intelligence agencies.[3] In the course of the divorce proceedings, the United States Attorney for the District of Maryland filed a statement of interest in the proceedings, which stated:

> [Mr. McGeehan] is a federal Government employee. The disclosure of information related to his employment, therefore, is subject to the control of the U.S. Government under applicable law. We understand that [Mr. McGeehan] has provided [Ms. Daniels] with certain information regarding his earnings and benefits in connection with this proceeding. However, as set forth further below, [Mr. McGeehan] is not authorized to provide additional information regarding his employment (including particular information [Ms. Daniels] is seeking in discovery) without the approval of the U.S. Government. As also explained below, [Ms. Daniels] can request additional information about [Mr. McGeehan's] employment from the U.S. Government through established regulatory procedures.[4]

The circuit court allowed the government to participate and to object to the production of certain information in discovery and at trial. The court's order allowed the government lawyers to prevent Mr. McGeehan from disclosing for whom he actually worked, the dates

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[3] And, more importantly, we don't care. The details of Mr. McGeehan's employment are immaterial to our analysis. We note that the government has not filed a motion to participate in the proceedings of this Court. We are, therefore, unconstrained and will discuss anything in the case file (which, fortunately, contains nothing likely to be secret).

[4] We infer that the government was referring to a so-called *Touhy* request. "In *United States ex rel. Touhy v. Ragen*, the Supreme Court interpreted the Housekeeping Statute[, 5 U.S.C. § 301,] to permit agencies to promulgate regulations centralizing their processing of subpoenas. These regulations have come to be known as *Touhy* regulations." Daniel C. Taylor, *Taking* Touhy *Too Far: Why It Is Improper for Federal Agencies To Unilaterally Convert Subpoenas into FOIA Requests*, 99 GEO. L.J. 1227, 1230 (2011). *See also* 36 C.F.R. § 1012.5 ("What information must I put in my Touhy Request?); *and* 28 C.F.R. § 16.26 ("Considerations in determining whether production or disclosure should be made pursuant to a demand.").

of employment, job titles, salaries, and the like. Ms. Daniels argues that (1) the government failed to identify its specific interest in the case and in fact did not have an interest in the case; and (2) the effect of the government's improper involvement was to make it impossible for the trial court to properly identify marital property.

The U.S. Government has wide latitude to participate in any pending suit "to attend to the interests of the United States." 28 U.S.C. § 517; *Falkowski v. EEOC*, 783 F.2d 252, 254 (D.C. Cir. 1986). The Attorney General has "general powers to safeguard the interests of the United States in any case, and in any court of the United States, whenever in his [or her] opinion those interests may be jeopardized." *Booth v. Fletcher*, 101 F.2d 676, 681-82 (D.C. Cir. 1938). "But the government is entitled to a presumption that the lawyers it identifies as working for it are acting within the powers granted them by law." *U.S. v. Springer*, 580 F. App'x 655, 657 (10th Cir. 2014). Other than that presumption, there is no standard by which to review the government's decision to intervene or the trial court's decision to permit the intervention. *See Falkowski*, 783 F.2d at 254 (noting that there is no standard of review in the statute, any regulation, or any administrative practice).

To Ms. Daniels's first point, while we acknowledge that the government's statement of interest, quoted above, was vague, we also understand that there will be occasions where such vagueness is required. We trust, and are required by § 517 to trust, that the federal government will not use its power to participate in state court proceedings lightly or frivolously. Therefore, we reject Ms. Daniels's first claim.

As to Ms. Daniels's second point—that the federal government made it impossible for the circuit court to identify marital property—there is more to say. *First*, from our review of the record, we think that she undervalues the government's attempts to provide useful information. It could have simply declined to produce *any* employment information and she would have had no recourse. Instead, it provided income statements; earnings statements; statements from Mr. McGeehan's thrift savings plan; and information regarding the annuity and health insurance plans in which Mr. McGeehan participates. Imperfect and incomplete information, but useful information nonetheless. *Second*, some of the insufficiencies of the government's discovery were occasioned by Ms. Daniels's choices. The government offered to produce additional information but only pursuant to a nondisclosure agreement. She declined to execute such an agreement. If, after that refusal, the government declined to produce information, the blame must be assessed against Ms. Daniels as well. *Third*, we aren't sure to what extent that gaps in the discovery prevented just resolution of the parties' disputes. Although the circuit court did complain about "the secrecy of information" and intimated that it would have liked to have seen more information about Mr. McGeehan's employment history, neither the circuit court nor Ms. Daniels has identified any real or personal property that could not be valued due to missing information.[5] And, *fourth*, this problem (if it was a problem) was hardly unique to this case,

[5] The only real property that the trial court noted any difficulty in valuing was the Mason Neck property and it placed the blame for that difficulty on Ms. Daniels. The trial court noted that because Ms. Daniels had failed to have the property appraised, it had to accept that the value was $600,000, although the court believed the value could be much higher.

these parties, or due to the intervention of the federal government. Circuit courts decide cases in the real world. They make decisions based on the evidence adduced, which is frequently imperfect and incomplete. That's just the nature of the process. For all of these reasons, we hold that that the federal government, if it impeded discovery, did not cause reversible error.

We conclude, therefore, that the federal government's participation in this case did not prevent the circuit court from deciding the ultimate issues in this case. We affirm.

2. Child Support

The trial court found Ms. Daniels to be voluntarily impoverished and, rather than computing child support based on her actual income of $0, imputed to her an annual income of $105,000. Ms. Daniels challenges the finding of voluntary impoverishment, arguing that she could not have made a "free and conscious" choice to remain unemployed because she was the primary caregiver for her eight children. We conclude that the trial court did not err.

Parents are obligated to support their children "if [they have] or reasonably could obtain, the means to do so." *Goldberger v. Goldberger,* 96 Md. App. 313, 327 (1993) (stating also that "[t]he law requires that parent to alter his or her previously chosen lifestyle if necessary to enable the parent to meet his or her support obligation."). When calculating child support, the trial court uses the actual income of a parent to calculate that parent's support obligation unless it finds that a parent is voluntarily impoverished. FL § 12-201(h). A parent is considered 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." *Wills v. Jones*, 340 Md. 480, 494 (1995) (citations omitted) (emphasis added). If the trial court finds that a parent is voluntarily impoverished, then the court may impute potential income to that parent. FL § 12-201(h). Thus, although a parent may be unable to work due to factors beyond her control, if a parent has reasonable means to support her child, she must do so.

The trial court found that Ms. Daniels had made the free and conscious choice not to work, had thus voluntarily impoverished herself, and imputed to her an annual income of $105,000. We hold that the trial court's determination that Ms. Daniels could have worked part-time and earned $105,000 per year was not an abuse of discretion. Ms. Daniels has experience in intellectual property law and had, in the past, earned more than $200,000 per year when working full time. Although she has physical custody of seven of her eight children, Ms. Daniels's youngest child is no longer an infant and the rest of the children are school-aged. Ms. Daniels also employs a "mother's helper," which alleviates some of the child care and housekeeping concerns. We discern no error in the trial court's determination that Ms. Daniels is voluntarily impoverished or in the decision to impute to her a part-time income of $105,000 per year.

3. Use and Possession of Marital Home

In the divorce judgment, rather than award either party use and possession of the marital home in Ellicott City, the trial court ordered that it be sold because neither party could afford to both pay the mortgage and keep the electricity on at the house. Ms. Daniels

argues that the trial court failed to properly consider the best interests of the children in coming to this decision. We conclude, however, that the trial court did not abuse its discretion.

Although the decision whether to grant use and possession of the family home rests in the discretion of the trial court, there are certain factors the trial court *must* consider when awarding use and possession. FL § 8-208. The trial court must consider (1) the "best interests of any children;" (2) the "interests of each of the parties" in continuing to use the property as a dwelling or for income; and (3) "any hardship imposed" on the party who is not granted use and possession. FL § 8-208(b). The trial court's decision whether to grant use and possession will not be disturbed unless clearly erroneous. *St. Cyr v. St. Cyr*, 228 Md. App. 163, 180 (2016). Here, Ms. Daniels does not dispute that the trial court considered the required factors but instead argues that the trial court allowed its concerns about one factor, the parties' financial stability, to outweigh another factor, the children's best interests.

The trial court commented on the record that "[t]here's no question that the children's interest would be served by remaining in the home." The trial court also considered, however, the parties' inability to afford the home and that neither party would actually be able to maintain the home for any length of time. The trial court noted that "[t]he reality is, this family can't survive with only one parent working and this family can't afford that house. And that's certainly evidenced by the fact that the utilities have been cut off. … No one has the money to pay the expenses of maintaining that house."

We conclude that the trial court's decision to not award use and possession was not clearly erroneous. Even if the trial court had awarded Ms. Daniels use and possession of the home, Ms. Daniels would not have been able to afford to keep the home. The trial court could have found that the children's interest in staying in the home may have been served temporarily by granting use and possession to Ms. Daniels, but the trial court's decision not to award use and possession goes a long way to ensuring that the children's long term interests are more secure. We conclude, therefore, that the trial court did not err in its decision to deny use and possession.

4. Marital v. Nonmarital Property and Monetary Award

Ms. Daniels contends that the trial court made several errors in its disposition of marital property and grant of a monetary award. First, she argues that the trial court improperly identified two pieces of real property (Mason Neck and Farside) as marital property. Second, she argues that the trial court improperly granted Mr. McGeehan a monetary award. We first address the disputed properties and then the marital award.

"In determining marital and nonmarital property, Maryland follows the 'source of funds' theory." *Dave v. Steinmuller*, 157 Md. App. 653, 663 (2004) (citing *Pope v. Pope*, 322 Md. 277, 281-82 (1991)).

> Under that theory, when property is acquired by an expenditure of both nonmarital and marital property, the property is characterized as part nonmarital and part marital. Thus, a spouse contributing nonmarital property is entitled to an interest in the property in the ratio of the nonmarital investment to the total nonmarital and marital investment in the property. The remaining property is characterized as marital property and its value is subject to equal distribution. Thus, the spouse

> who contributed nonmarital funds, and the marital unit that contributed marital funds each receive a proportionate and fair return on their investment.

Pope, 322 Md. at 281-82 (quoting *Harper v. Harper*, 294 Md. 54, 80 (1982)). "If a property interest cannot be traced to a nonmarital source, it is considered marital property." *Innerbichler v. Innerbichler*, 132 Md. App. 207, 227 (2000) (internal citation omitted). If a piece of real property is titled as "tenants by the entirety," that property is automatically considered marital property. FL § 8-201(e)(2). When a party claims that nonmarital funds were used to buy a property titled as "tenants by the entirety," that party must rebut the presumption that the property is marital property. *Innerbichler v. Innerbichler*, 132 Md. App. 207, 227 (2000). "When attempting to demonstrate that property acquired during the marriage is nonmarital, the party with this burden must directly trace the property to a nonmarital source." *Noffsinger v. Noffsinger*, 95 Md. App. 265, 281-82 (1993).

Parties may exclude a piece of property acquired during the marriage from the marital property pool through a valid agreement. FL § 8-201(e)(2) ("'Marital property' includes any interest in real property held by the parties as tenants by the entirety unless the real property is excluded by valid agreement."). To do so, however, the agreement must either specifically provide that the property is nonmarital or specifically exclude the property from the scope of the Marital Property Act. *Golden v. Golden*, 116 Md. App. 190, 203 (1997) (citing *Falise v. Falise*, 63 Md. App. 574, 581 (1985)). Findings of whether property is marital or nonmarital "are subject to review under the clearly erroneous standard embodied by Md. Rule 8-131(c); we will not disturb a factual finding unless it is clearly erroneous." *Noffsinger,* 95 Md. App. at 229.

a. Mason Neck Property (Virginia)

The Mason Neck property is located in Virginia. It was acquired early in the marriage. As described above, the Mason Neck property was transferred from Mr. McGeehan to Ms. Daniels when she discovered his stock losses in 2005. From then on, it was titled in her name alone. Ms. Daniels later received a monetary gift from her mother and grandmother, which she used to pay off the mortgage on the property. Ms. Daniels contends that when Mr. McGeehan transferred the Mason Neck property to her in 2005, it was the parties' intent that the property be hers alone. She also argues that the fact that she paid off the mortgage on the property with money from her mother and grandmother is further proof that the property was nonmarital. She concludes, therefore, that the Mason Neck property was nonmarital property and the trial court erred by counting it as marital.

Although, as the trial court noted, the deed for the property and the oral agreement between the parties evidenced an intent to transfer the property into Ms. Daniels's name alone, they did not express an intent to remove the Mason Neck property from marital property status or to exempt it from application of the Marital Property Act. The trial court, citing *Golden v. Golden*, carefully noted that an agreement must explicitly state that the property is to be excluded from marital property and that the agreement between Ms. Daniels and Mr. McGeehan had no such statement. The trial court concluded that the testimony and the documents did not support a finding that the parties were contemplating the future division of property and wanted to remove the Mason Neck property from the scope of the Marital Property Act. Similarly, the trial court did not believe that Ms.

Daniels's use of gift funds to pay off the mortgage converted Mason Neck into nonmarital property. We see no error in the trial court's analysis.

b. Log Jump Property (Ellicott City)

The trial court also found that the Log Jump property, the family home in Ellicott City, was marital property and ordered that, after the Log Jump property is sold, the proceeds of the sale will be split evenly between Mr. McGeehan and Ms. Daniels. Ms. Daniels's argument regarding the nonmarital property status of the Log Jump property requires more background on the manner in which the property was purchased. In 2005, when Mr. McGeehan conveyed the Mason Neck property to Ms. Daniels only, the parties also jointly conveyed a property called the "Farside property" to her. Ms. Daniels paid off the lien to the Farside property at the same time she paid the lien on the Mason Neck property with the monetary gift from her mother and grandmother. The Farside property was then sold when the family bought the Log Jump property, and $407,035.61 of the proceeds from the Farside property sale were put towards the purchase of the Log Jump property. Ms. Daniels contends that, because Farside was titled in her name alone and she had paid off the Farside lien with the gift money, the $407,035.61 from the sale of Farside that was contributed to the purchase of Log Jump, should be considered nonmarital. As a result of her modified calculations, after selling Log Jump, Ms. Daniels argues that she should receive $407,035.61 of the sale proceeds and then the remaining proceeds should be split between the parties.

The trial court determined that because Log Jump was titled as tenants by the entirety it was marital property. The trial court explained that the Log Jump property was "purchased with funds that had been for years and years co-mingled with premarital funds and would now be considered marital." The trial court did not find that any portion of the Log Jump property could be considered nonmarital despite that part of the purchase money coming from the sale of the Farside property. By concluding that the Log Jump purchase funds were marital funds, the trial court implicitly rejected Ms. Daniels's argument that Farside was nonmarital property. We see no error in the circuit court's conclusion that the Farside property was marital property for the same reasons that we agreed that the Mason Neck property was marital property—there was no explicit agreement excluding the Farside property from the marital property pool when the parties transferred title to Ms. Daniels only. We see nothing to persuade us that the trial court's determination was clearly erroneous.

c. The Monetary Award

Ms. Daniels argues that the trial court's split of the marital property, and corresponding monetary award of $230,000 to Mr. McGeehan, results in Ms. Daniels walking away from the marriage with $150,000 less in retirement savings than Mr. McGeehan. She argues that the trial court should have accounted for this inequality in retirement accounts by awarding her a portion of Mr. McGeehan's Thrift Savings Plan. Because the trial court did not do so, she concludes, the trial court abused its discretion. We conclude that the trial court did not err.

Trial courts are empowered to "balance the equities" between the parties in a divorce if division of the marital property by title is inequitable. *Innerbichler*, 132 Md. App. at 227. After having determined what property is marital property, who holds that property, and the value of the property, the trial court totals the value of the marital property titled in each party's name. *Id.* Then, because frequently one party will hold significantly more property than the other, the trial court may balance the equities by ordering one party to pay the other a monetary award. *Id.*

Here, Ms. Daniels believes the trial court should have ordered Mr. McGeehan to transfer a portion of his Thrift Savings Plan to her so that they each retain roughly the same amount of retirement savings. By Ms. Daniels's math, Mr. McGeehan retained more than double the amount of retirement savings that she was awarded:

Ms. Daniels Retirement Assets	
Citibank IRA	$102,746.60
Total:	$102,746.60

Mr. McGeehan Retirement Assets	
Thrift Savings Plan	$251,362.77
Merrill Lynch 401K	$1,287.98
E-Trade	$379.49
Charles Schwab	$521.91
Total:	$253,552.15

The trial court, however, did not consider only the retirement accounts when determining the value of the property held by each party. Instead, the trial court included, as it was required to include, checking accounts, savings accounts, cars, retirement accounts, investment accounts, stock trading accounts, real property, and personal property:

Ms. Daniels Assets	
Account -3816	$8.00
Account -4245	$5.00
Account -5152	$7.00

Mr. McGeehan Assets	
Account -2326	$25.25
Honda Pilot	$11,242.00
BMW	$5,773.00

Account -6323	$6.00
Account -7681	$300.00
Citibank IRA	$102,746.60
Suburban	$23,016.00
Mason Neck	$600,000.00
Log Jump Furniture	$10,000.00
Log Jump Paintings	$10,000.00
Jewelry	$5,000.00
Total:	$751,088.60

Watches	$2,500.00
Thrift Savings Plan	$251,362.77
Merrill Lynch 401K	$1,287.98
E-Trade	$379.49
Charles Schwab	$521.91
Whale Boat Furniture	$5,000.00
Whale Boat Paintings	$2,500.00
Total:	$280,592.40

By our calculation, after the monetary award of $230,000 to Mr. McGeehan, Ms. Daniels will retain a combination of marital property valued at $521,088.60, while Mr. McGeehan will receive combination of marital property valued at $510,592.40.[6] The trial court's balancing of the equities came as close to equal as possible while also considering the parties' intangible contributions to the marriage. While Ms. Daniels is correct that she has less in retirement accounts than Mr. McGeehan, her argument ignores that she has $600,000 more in real property. The $230,000 award makes it all just about even. We affirm.

5. The Deeds of Trust

Ms. Daniels's final argument is that the trial court erred by declining to rule on her request to void two deeds of trust that Mr. McGeehan put on the Log Jump house during the pendency of the divorce. Appellate courts do not ordinarily, however, review issues that were not decided by the trial court. Md. Rule 8-131. The circuit court never ruled on the request to void the deeds of trust. The trial court deferred its ruling on Ms. Daniels's motion to void the deeds of trust until it issued its ruling on the merits of the divorce. But,

[6] Our calculations exclude the fish tank because *de minimis non curat lex*.

at the close of the divorce trial, when the trial court issued its ruling, the court never returned to the question.

We decline to review this undecided issue and instead will allow the trial court to do so. Because of the continuing jurisdiction exercised by circuit courts in family law cases, the circuit court retains jurisdiction to decide this matter upon remand. *Walsh v. Walsh*, 95 Md. App. 710, 715 (1993). We, therefore, remand as to this issue only, without affirmance or reversal, for whatever consideration the circuit court deems appropriate.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED IN PART. REMANDED IN PART WITHOUT AFFIRMANCE OR REVERSAL. COSTS TO BE PAID BY APPELLANT.