

Circuit Court for Frederick County
Case No.: C-10-FM-19-000612

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1805

September Term, 2023

CHIDOZIE NWADIGO

v.

NAYA NWADIGO

Graeff,
Ripken,
Meredith, Timothy E.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: November 19, 2024

*This is an unreported opinion. It may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This is the second appeal arising out of the divorce of Chidozie Nwadigo (“C. Nwadigo”) and Naya Nwadigo (“N. Nwadigo”) in the Circuit Court for Frederick County. The first appeal was preceded by a trial on the merits, at the conclusion of which the circuit court entered a judgment of absolute divorce. The court also awarded use and possession of the family home, a monetary award, child support, and custody.

On appeal, we affirmed the use and possession and custody orders, but vacated and remanded the child support order and monetary award. Following the remand, further proceedings were held before the circuit court. On October 6, 2023, the circuit court entered an order, from which C. Nwadigo now appeals. C. Nwadigo presents the following issue for our review, which we have consolidated and rephrased as follows:¹

Whether the circuit court erred in failing to consider the present value of the parties’ assets and liabilities in calculating the monetary award.

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

FACTUAL AND PROCEDURAL BACKGROUND

We need not repeat the facts of this case and set forth only those facts that are relevant to the issue on appeal. The parties were married on August 4, 2011. They had two children together. They separated in March of 2019, and divorced in April of 2022.

¹ In his brief, C. Nwadigo phrased the issues as:

1. Opinion and Judgment upon remand contradict the Remand Hearing.
2. The Monetary Award is based on Incorrect Calculations of Property Values and Net Worth of Appellant vs Appellee.

In the divorce judgment, the circuit court set forth the parties’ marital property, valued that property, and evaluated the factors as per section 8-205(b) of the Family Law Article (“FL”) of the Maryland Code, (1984, 2019 Repl. Vol.). The circuit court awarded N. Nwadigo use and possession of the parties’ marital home for a period of three years and ordered that she continue to pay the mortgage as well as all other expenses attributable to the home. The court noted that C. Nwadigo was making a monthly mortgage payment of \$2,231.00 on a separate home that he had purchased with marital funds which was titled solely in his name. The court denied alimony and ordered C. Nwadigo to pay monthly child support in the amount of \$1,409.00. The circuit court also valued C. Nwadigo’s Tesla Model S at \$30,000.00 with a lien of \$1,842.00. The lien amount, due to an inadvertent error, did not correctly reflect the record.

The circuit court calculated C. Nwadigo’s net worth as \$462,331.00 and N. Nwadigo’s net worth as \$451,197.00. After reviewing the factors under FL § 8-205(b), the court made an equitable determination that N. Nwadigo was entitled to 55% of the marital property and C. Nwadigo was entitled to 45% of the marital property. The court determined that 55% of the parties’ net worth was \$502,440.00 and made a monetary award to N. Nwadigo in the amount of \$51,243.00, representing the shortfall between her net worth and the 55% share of the marital property the court allocated to her. The court declined to award attorney’s fees and denied the parties’ respective claims for overpayment and underpayment of child support.

We issued our opinion in December of 2022, affirming in part, and vacating in part, the divorce judgment. We vacated the monetary award on two grounds. The first was the

circuit court’s miscalculation regarding the lien on C. Nwadigo’s Tesla Model S. The circuit court valued the Tesla Model S at \$30,000.00 with a lien of \$1,842.00; however, the undisputed evidence at trial showed that the lien was \$17,842.00. The second ground was that the circuit court’s memorandum opinion was unclear in addressing whether, in making its monetary award determination, it had considered C. Nwadigo’s bank and credit card loans, which he had claimed exceeded \$42,000.00. We therefore remanded the monetary award for the circuit court to recalculate, considering the \$17,842.00 lien on the Tesla Model S, and whether C. Nwadigo’s bank and credit card loans affected his economic circumstances pursuant to FL § 8-205(b)(3). We also remanded on the issue of child support directing the court to consider the April 2022 visitation schedule.

In advance of the remand hearing, the circuit court directed the parties to submit an updated Rule 9-207 joint marital and nonmarital property statement and updated Rule 9-203(a) financial statements. Pursuant to the circuit court’s instructions, the parties submitted updated joint marital and nonmarital property and financial statements, which the circuit court admitted into evidence at the remand hearing.

Following the hearing, the circuit court issued a memorandum opinion, addressing this Court’s mandate and instructions:

Prior to the hearing on remand, at the request of the trial court, the parties submitted new Rule 9-207 and financial statements. As at the original trial, the parties were unrepresented by counsel. During the remand hearing, a question arose as to whether the recalculation of the monetary award should be measured from the date of the original award, or the date of the remand hearing. Because of this uncertainty, the court took evidence of current values for the marital and non-marital property. Upon a closer reading of the Appellate Court opinion, however, and from a common-sense point of view, evidence of [the] current valu[ation] would appear to be inappropriate. On

the date of divorce, the parties ceased to own marital property. To use present valuations would not reflect the values of such property on the date of divorce.

Accordingly, the trial court believes that its mandate is to use the same figures it originally found to be accurate in calculating a monetary award, while plugging in to the calculus the correct lien then[-]existing on the Tesla.

The circuit court indicated in its memorandum opinion on remand that it had accepted the debt identified in C. Nwadigo’s financial statement which showed that he had incurred \$42,456.00 in bank and credit card debt at the time of the original divorce hearing, noting that the court took this debt into consideration. The court determined that the only adjustment to be made to the monetary award on remand was to credit \$16,000.00 to C. Nwadigo. This adjusted for the correct amount of the Tesla lien. The circuit court recalculated C. Nwadigo’s net worth on the date of the divorce to be \$446,331.00 and used the original calculation of N. Nwadigo’s net worth on the date of the divorce of \$451,197.00. After reviewing its analysis of the factors in the memorandum opinion, the court confirmed its original determination that N. Nwadigo was entitled to 55% of the marital property and C. Nwadigo was entitled to 45% of the marital property. Based on the court’s revised calculations, the court made a monetary award to N. Nwadigo in the amount of \$42,443.40.

C. Nwadigo filed this appeal.

STANDARD OF REVIEW

Under Maryland Rule 8-131(c), following a bench trial, we “review the case on both the law and the evidence.” We review a trial court’s factual findings under the clearly erroneous standard, while we review a trial court’s determination of questions of law under

a de novo standard. *Friedman v. Hannan*, 412 Md. 328, 335 (2010) (citing Md. Rule 8-31(c)); *see Plank v. Cherneski*, 469 Md. 548, 569 (2020) (“When a trial court decides legal questions or makes legal conclusions based on its factual findings, we review these determinations without deference to the trial court.”) (internal cites omitted). “It is a question of fact as to whether all or a portion of an asset is marital or non-marital property[,]” as well as the value of each item of marital property. *Flanagan v. Flanagan*, 181 Md. App. 492, 521 (2008). A trial court’s decision to grant a monetary award, and the amount of that award, is subject to review for abuse of discretion. *Id.* Although the abuse of discretion standard is deferential, “a trial court must exercise its discretion in accordance with correct legal standards.” *Id.* at 521–22 (internal cites omitted).

DISCUSSION

C. Nwadigo contends that the circuit court erred in recalculating the monetary award based on the economic circumstances of the parties at the time of the divorce, rather than their economic circumstances at time of the remand hearing. He argues that due to earlier correspondence from the circuit court, he was prepared to present evidence concerning his present circumstances rather than the economic circumstances at the time of the divorce. He further asserts that the circuit court did not calculate the marital property in a manner consistent with this Court’s instruction on remand.

Maryland has established a three-step process for determining whether to grant a monetary award in divorce proceedings. *Abdullahi v. Zanini*, 241 Md. App. 372, 405 (2019). “First, for each disputed item of property, the judge must determine whether it is marital or non-marital.” *Id.* (citing *Flanagan*, 181 Md. App. at 519). “Second, the court

must determine the value of all marital property.” *Id.* “Third, the court must decide if the division of marital property according to title would be unfair, and if so, it may make a monetary award to rectify any inequity created by the way in which property acquired during marriage happened to be titled.” *Id.* at 405–06 (internal citations and quotation marks omitted).

In making the determination as to marital property, the circuit court is generally required to determine which property is marital property at the time the absolute divorce is granted. FL § 8-203. Similarly, when determining the value of the marital property for purposes of division, the value of the property is to be decided as of the date on which divorce is entered. *Doser v. Doser*, 106 Md. App. 329, 348 (1995); *see also Green v. Green*, 64 Md. App. 122, 141 (1985) (holding that “equity requires that reasonable efforts be made to ensure that valuations of marital property approximate the date of a judgement of divorce which includes a monetary award.”). The decision whether to make a monetary award is a discretionary matter of equity. *Abdullahi*, 241 Md. App. at 405–06.

Under the mandate rule, an appellate decision “is binding and conclusive upon the parties . . . and it is obvious that if [a subsequent court] order departs from the mandate either by allowing more or less than contained in its terms, it is illegal and subject to [appellate review].” *Bd. of Public Works, et al. v. K. Hovnanian’s Four Seasons at Kent Island, LLC*, 443 Md. 199, 222 n.10 (2015) (“*Hovnanian*”) (internal citation and quotation marks omitted). When this court provides “any direction in an order or mandate that proceedings on remand are to be consistent with the opinion[,]” the opinion is necessarily

required to be considered “an integral part of the judgment.” *Harrison v. Harrison*, 109 Md. App. 652, 666 (1996), *cert. denied*, 343 Md. 564 (1996).

In this case, the mandate of our prior opinion incorporated the opinion itself, stating that the judgment was “affirmed in part, vacated in part, and *remanded for recalculation of . . . the monetary award in accordance with this opinion.*” *Nwadigo v. Nwadigo*, No. 436, Sept. Term 2022, 2022 WL 17413061, at *9 (Md. Ct. Spec. App. Dec. 5, 2022) (“*Nwadigo I*”) (emphasis added). Because we indicated that the proceedings on remand were to be in accordance with the opinion, the opinion itself was then incorporated into the mandate. *See Harrison*, 109 Md. App. at 666. As to the monetary award, although C. Nwadigo raised several issues, we vacated the award only as to two of those issues. *Nwadigo I*, 2022 WL 17413061 at *5–7. As to the first issue, we held that the circuit court did not explain its calculation of the lien on the Tesla Model S when it stated the lien amount as \$16,000.00 lower than the evidence demonstrated. *Id.* at *7. As to the second, we held that it was “unclear from the record whether the court considered C. Nwadigo’s bank and credit card loans in its monetary award determination.” *Id.* We instructed that on remand the circuit court “shall recalculate the monetary award considering C. Nwadigo’s \$17,842.00 lien on the Tesla Model S, as well as C. Nwadigo’s credit card and bank loan debts, to the extent that the court finds that the debts affect his economic circumstances under FL section 8-205(b)(3).” *Id.* That was the extent of our instructions to the circuit court on remand, and the circuit court was bound to recalculate the monetary award within those limitations. *Hovnanian*, 443 Md. at 222 n.10.

In recalculating the monetary award, the circuit court reviewed our mandate. It explained that based on this Court’s mandate, the circuit court, in clarifying and recalculating the marital award, was using the values of marital property taken from the time of the divorce because “[o]n the date of divorce, the parties ceased to own marital property[,]” and therefore, “[t]o use present valuations would not reflect the values of such property on the date of the divorce.” The circuit court explained that the \$16,000.00 reduction in the lien amount from the Tesla Model S was the result of a typographical error and that the court would use the correct, undisputed amount of \$17,842.00 in its recalculation. The circuit court next addressed its consideration of the bank and credit card debt. The court explained that it had considered C. Nwadigo’s bank and credit card debt and had accepted the figure from C. Nwadigo’s financial statement in its assessment of his economic circumstances and valuation of net worth. The circuit court recalculated C. Nwadigo’s net worth at the time of the divorce, applying the correct amount of the Tesla Model S lien and with the explanation that it had considered and accepted the amount of C. Nwadigo’s debt in determining his net worth at the time of the divorce and evaluation of marital property.²

The circuit court explained that in its consideration of the equitable factors, it had previously found it significant that C. Nwadigo had eliminated N. Nwadigo and the

² The circuit court recalculated C. Nwadigo’s net worth on the day of the divorce (i.e., \$462,331.00 - \$16,000.00 = \$446,331.00). In addition, the circuit court also reduced that debt from the total amount of the marital property (i.e., \$913,528.00 - \$16,000.00 = \$897,528.00). The court then used the reduced figure to calculate the equitable division of marital property.

children from his company pension and life insurance policy and purchased a second home with marital funds that he titled solely in his name. *Nwadigo I*, 2022 WL 17413061 at *6. The circuit court stated that these factors, amongst others, informed its decision that an equitable distribution of the marital property remained a division of 45% to C. Nwadigo and 55% to N. Nwadigo.

To the extent that C. Nwadigo contends that the circuit court should have used his current economic situation in calculating the sum of the marital property, his net worth, and the marital award, he is incorrect. *See* FL § 8-203; *see also Doser*, 106 Md. App. at 348; *Green*, 64 Md. App. at 141. *Cf. Schweizer v. Schweizer*, 301 Md. 626, 637 (1984) (though “[a] nonmarital debt may not serve to reduce the value of marital property[,]” it may be considered in calculating the monetary award, as it “clearly reflects on that party’s economic circumstances at the time the award is to be made”).

As to C. Nwadigo’s contention that the circuit court did not consider his current economic situation under FL section 8-205(b)(3) as an equitable factor in determining whether an award should be made, the circuit court indicated to the contrary. In its opinion, the circuit court reviewed the parties’ updated financial statements, even though it correctly did not use those figures in calculating the sum of the marital property. A review of the transcript demonstrates, likewise, that the circuit court did review the parties’ then-present financial situation. Thus, the circuit court followed this Court’s instructions in its mandate for proceedings on remand.

It is worth noting that this court has held, on at least one prior occasion, that a modified monetary award requires reconsideration of all eleven factors under FL § 8-

205(b) in situations where it “essentially is revising an earlier monetary award.” *Fuge v. Fuge*, 146 Md. App. 142, 176 (2002), *cert. denied*, 372 Md. 430 (2002). The Court stated that “[w]hen the extent of the marital property has changed due to an appellate decision, the trial court should rethink whether its original method of application is still ‘equitable’ in light of the new circumstances.” *Id.* at 177. We note that *Fuge* is factually distinguishable from this case. In *Fuge*, after multiple appeals spanning several years, an appellate decision reallocated a substantial asset as not part of the marital property. *Id.* at 152–53. On remand, the circuit court vacated the existing monetary award and then entered a new award. *Id.* at 157–58. On appeal, this Court held that the circuit court erred when it entered the new award because it failed to consider the parties’ economic circumstances at the time the new award was made. *Id.* at 176. Conversely in this case, in the prior appeal, this Court did not vacate the entire monetary award, nor the circuit court’s allocation of marital property. This Court merely instructed the circuit court to address and revise as appropriate two aspects of its award, using the correct value of the Tesla Model S lien, and providing an explanation illustrating its consideration of C. Nwadigo’s debts. The circuit court followed these instructions.

C. Nwadigo further argues that the circuit court erred in failing to consider the Marcus by Goldman Sachs loan that he used to make the mortgage payments on the second home, an argument that he raised in his previous appeal to this Court. In our opinion from the first appeal, we concluded that the circuit court did not abuse its discretion in considering the downpayment and mortgages paid towards the second home, and the significance the circuit court attributed to the fact that C. Nwadigo had purchased a second

home with marital funds and titled that property solely in his name. As we addressed this issue in our previous opinion, C. Nwadigo may not relitigate it here. *See Stokes v. Am. Airlines, Inc.*, 142 Md. App. 440, 446 (2002) (holding that once an appellate court has answered a question of law, that issue is settled for future proceedings and may not be relitigated).

Finally, C. Nwadigo contends that the circuit court erred in its original opinion and by extension, its opinion on remand, in valuing and allocating ownership of various furniture, lawn equipment, and the Toyota Corolla. As C. Nwadigo asserts, these issues were present in the circuit court’s original opinion and could have been addressed in the original appeal. Because C. Nwadigo could have raised these questions in the earlier appeal but did not, they cannot now be raised in this second appeal. *Harrison*, 109 Md. App. at 678 (“Neither questions that were decided nor questions that could have been raised and decided on appeal can be relitigated.”) (quoting *Kline v. Kline*, 93 Md. App. 696, 700 (1992)).

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