

Circuit Court for Montgomery County
Case No.: C-15-FM-21-001299

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1935

September Term, 2023

APOLINAIRE Z. TRA

v.

CARMELLE T. NORICE-TRA

Nazarian,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 4, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

In December 2021, Carmelle T. Norice-Tra, appellee (“Wife”), sought an absolute divorce from Apolinaire Z. Tra, appellant (“Husband”), in the Circuit Court for Montgomery County. Husband counterclaimed seeking, among other things, a marital property award. Ahead of trial, the parties filed separate Statements of Marital and Non-Marital Property. The Statements were largely similar, and neither party moved for sanctions for the other’s failure to strictly comply with Maryland Rule 9-207.

The court held a two-day bench trial in November 2023. Neither party introduced their Rule 9-207 Statement into evidence at trial or testified about the property listed therein. The court ultimately granted Wife an absolute divorce but denied Husband any relief requested. In explaining its ruling, the court stated that “[t]here was no evidence, other than the stipulation as to what’s not marital, their real estate, there was no evidence of other marital property.” Husband timely appealed.

We review a case tried without a jury on both the law and the evidence. Md. Rule 8-131(c). We “will not set aside the judgment of the trial court on the evidence unless clearly erroneous[.]” *Id.* The same deference does not apply to the trial court’s legal conclusions, however, and we, instead, review them *de novo*. *Murray v. Murray*, 190 Md. App. 553, 560 (2010).

On appeal, Husband identifies several items of property that he contends are marital property. He argues that the trial court erred in not considering them for the purpose of deciding whether to issue a monetary award. Wife—echoing the trial court’s reasoning—counters that there was no evidence at trial about any marital property.

In divorce cases, courts must follow a three-step procedure when determining whether a monetary award is appropriate: *First*, they determine whether a disputed item of property is marital or non-marital. *Richards v. Richards*, 166 Md. App. 263, 272 (2005). *Second*, they determine the value of any marital property. *Id.* *Third*, they “must determine if the division of marital property according to title will be unfair; if so, the court may make an award to rectify the inequity.” *Id.* (cleaned up). Although, “[t]he decision whether to grant a monetary award is generally within the sound discretion of the trial court[,]” the court “must exercise its discretion in accordance with correct legal standards.” *Alston v. Alston*, 331 Md. 496, 504 (1993).

During closing argument, Husband’s counsel discussed his claim for a monetary award and directed the trial court to the parties’ Statements of Marital Property. Although the court acknowledged that the parties had each filed Statements, it did not believe it could consider them because they were not formally introduced into evidence at trial. As a result, the trial court here stopped at the first step of the monetary-award analysis because, in its view, “there was no evidence regarding marital property.” But formal introduction of the Statements was not required for the court to consider them.

“[T]he facts and averments as to the properties made in the statements required to be filed by Maryland Rules [9-202(e)] and [9-207(a)] constitute judicial admissions and may be considered as evidence *without the necessity for the formal introduction at trial of these documents.*” *Beck v. Beck*, 112 Md. App. 197, 205 (1996) (emphasis added). To be sure, the parties did not strictly adhere to the procedure laid out in Rule 9-207(c), and as a result, they did not file a “joint” statement of marital property. As noted above, however,

neither party moved for sanctions against the other for their failure to comply with the Rule. *See* Md. Rule 9-207(d). And although the court could have imposed a sanction *sua sponte*, the record does not reflect its decision to not consider the Statements was a sanction for either parties' noncompliance. Rather, the court believed it could not consider the Statements solely because they were not formally introduced at trial.

Moreover, the parties' Statements suggest that they were in almost total agreement concerning both what items were marital property and the valuation of those items. Indeed, each item listed in Husband's brief is identified in Wife's Statement as marital property. The court thus could have considered the parties' Statements of Marital and Non-Marital Property and performed a full monetary-award analysis.

In sum, the trial court erred in finding that there was no evidence of marital property based solely on the fact that the parties' Statements of Marital and Non-Marital Property were not formally introduced at trial. We will therefore vacate the portion of the court's judgment denying Husband's claim for a monetary award and remand for the court to determine whether an award is appropriate.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED IN PART AND VACATED IN PART. JUDGMENT WITH RESPECT TO MONETARY AWARD VACATED. JUDGMENT OTHERWISE AFFIRMED. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.