

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MIR MOUSAVI, )  
 ) No. 299, 2003  
 Respondent Below, )  
 Appellant, ) Court Below: Family Court  
 v. ) of the State of Delaware in  
 ) and for Sussex County  
 )  
 SHAHLA VAKILI, ) No. CS00-03386  
 ) Petition No. 00-07955  
 Petitioner Below, )  
 Appellee. )

Submitted: December 9, 2003  
Decided: December 22, 2003

Before **VEASEY**, Chief Justice, **BERGER** and **STEELE**, Justices.

***ORDER***

This 19<sup>th</sup> day of December 2003, upon consideration of the parties' briefs, it appears to this Court that:

1. Appellant Mir Mousavi and Appellee Shahla Vakili married on August 12, 1974. They separated in June 1996 and the Family Court entered a final decree of divorce on May 24, 2000. Both parties are physicians and have accumulated a multi-million dollar estate during their marriage. Before filing for divorce, Mousavi transferred \$2,055,000 worth of investments to the couple's two children. Following an ancillary hearing on May 31, 2001, the parties provided the court with a post-trial stipulation that included the values of the parties' retirement funds and investments as of the date of the separation (June 1996), the date of the

divorce (May 24, 2000) and the date of the ancillary hearing (May 31, 2001). In a January 13, 2003 property division decision, the trial judge chose to value the marital property as of the date of the divorce. The trial judge found that Mousavi's \$2,055,000 transfer to his children was an effort to place those assets beyond the reach of both his wife and the court and credited his part of the marital estate with the amount of the transfer. The trial judge also ordered Mousavi to pay Vakili \$1.8 million in order to equitably divide the marital estate 55% to Vakili and 45% to Mousavi. Mousavi filed a Motion for Reargument/Clarification. He asked the trial judge to revalue the assets to reflect market prices current as of the date of the property division order. The trial judge declined to grant Mousavi any relief in a March 12, 2003 decision. Mousavi appealed. We review the Family Court Judge's decision for abuse of discretion.

2. The date of divorce controls for the purpose of determining the identity of a marital asset, however, equitable factors may exist which call for valuing the property on a date after the divorce.<sup>1</sup> Whether to reopen a hearing is a purely discretionary matter that requires the trial judge to weigh the facts and circumstances of each case.<sup>2</sup>

3. Mousavi argues that the trial judge erred by not revaluing his assets based on a 30% decrease in their value as of the date of the property division order

---

<sup>1</sup> *Walter W. B. v. Elizabeth P. B.*, 462 A.2d 414 (Del. 1983).

<sup>2</sup> *Bachtle v. Bachtle*, 494 A.2d 1253, 1256 (Del. 1985).

resulting from the time lapse between the divorce date and the ancillary property division decision date. He relies on *Schlerf v. Schlerf*, where the court granted an adjustment based on a \$7,000 increase in the value of stock between the day of a stipulation to value and 3 days before the ancillary decision.<sup>3</sup> There, the trial judge's stated reasons included the substantial disparity in value of the assets and the husband's prompt action in raising the issue.<sup>4</sup> Mousavi similarly relies on *Wife F. v. Husband F.* for relief. There, a party owned a liquor store with a declared value of \$26,722, but entered into a contract to sell the store for \$110,000 before a Superior Court judge's final order.<sup>5</sup> On appeal, we held that the trial judge should have reopened the case to consider evidence of the sale based on, among other reasons, the substantial difference in the previous valuation and the selling price.<sup>6</sup>

4. In the matter *sub judice*, the trial judge weighed the facts and circumstances and properly denied Mousavi's request for a revaluation of assets. This case is distinguished from *Schlerf* and *Wife F.* because Mousavi's claim of a 30% decrease in the value of his assets is pure speculation. Mousavi failed to produce any evidence of a change in valuation. Further, Mousavi does not argue nor does equity demand consideration of a later valuation date. Reopening this case for the sole purpose of revaluing marital assets where the trial judge rationally

---

<sup>3</sup> *Schlerf v. Schlerf*, File No. 08499-85 (Fam. Ct., July 31, 1986).

<sup>4</sup> *Id.*

<sup>5</sup> *Wife F. v. Husband F.*, 358 A.2d 714 (Del. 1976).

<sup>6</sup> *Id.*

selected a reasonable valuation date only causes further delay in resolving this marital dispute. The record demonstrates that the trial judge did not abuse his discretion when he denied Mousavi's motion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court be, and hereby is **AFFIRMED**.

/s/ Myron T. Steele  
Justice