

IN THE SUPREME COURT OF THE STATE OF DELAWARE

REGINA L. WEISGERBER,	§	
	§	No. 115, 2004
Petitioner Below,	§	
Appellant,	§	Court Below: Family Court
	§	of the State of Delaware
v.	§	in and for New Castle County
	§	
FRANK R. WEISGERBER,	§	File No. CN02-06864
	§	
Respondent Below,	§	
Appellee.	§	

Submitted: October 12, 2004
Decided: November 16, 2004

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 16th day of November, 2004, on consideration of the briefs of the parties, it appears to the Court that:

(1) Appellant, Regina L. Weisgerber, appeals a decision of the Family Court denying her motion to supplement the record to reflect the increase in value of marital real estate. She argues that the trial judge abused her discretion by waiting an unreasonable amount of time to issue her decision on property division. Appellant points to the nine month delay between the appraisal date and the trial judge's written opinion concerning the property division. Because

we find no abuse of discretion with the trial judge's ruling, we affirm.

(2) The parties were divorced by final decree of the Family Court on July 11, 2002. The parties' marital property included two parcels of real estate: (1) their primary residence in Bear, Delaware; and (2) their vacation home in Bethany Beach, Delaware. The property at issue in this appeal is the Bethany Beach property.

(3) An ancillary hearing was held on May 12, 2003, which addressed the issue of property division. On May 22, 2003, the parties submitted a stipulation to the value of the Bethany Beach property based on an appraisal performed in April 2003. Nine months later, on January 29, 2004, the trial judge issued her decision on property division. The trial judge permitted Appellee, Frank R. Weisgerber, the first opportunity to purchase Appellant's interest in the Bethany Beach property. Appellant thereafter filed a motion to supplement the record as to the value of the Bethany Beach property. The trial judge denied her request.

(4) "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."¹ "Whether to reopen a

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(continued...)

hearing is a purely discretionary matter that requires the trial judge to weigh the facts and circumstances of each case.”²

(5) It is well settled in Delaware that a trial judge has discretion to value the marital property as of the time of divorce, the time of separation or the time of the ancillary hearing.³ In *Mousavi*, this Court upheld the denial of the wife’s request for a revaluation of the marital assets.⁴ In *Mousavi*, we reasoned that “[r]eopening [a] case for the sole purpose of revaluing marital assets where the trial judge rationally selected a reasonable valuation date only causes further delay in resolving this marital dispute.”⁵ Moreover, in *Greg v. Greg*,⁶ we held that a trial judge did not abuse his discretion in valuing the marital property as of the date of the ancillary decision despite the increase in value since that date.⁷

¹(...continued)

Mousavi v. Vakili, 840 A.2d 642 (Del. 2003) (ORDER) (citing *Walter W.B. v. Elizabeth P.B.*, 462 A.2d 414 (Del. 1983)).

² *Id.* (citing *Bachtle v. Bachtle*, 494 A.2d 1253, 1256 (Del. 1985)).

³ *Bachtle*, 494 A.2d at 1256 (citing *Walter W.B.*, 462 A.2d at 414).

⁴ *Mousavi*, 840 A.2d at 642.

⁵ *Id.*

⁶ 542 A.2d 357 (Del. 1988) (ORDER).

⁷ *Id.*

(6) In this case, we find that the trial judge selected a reasonable valuation date for the Bethany Beach property. In fact, the trial judge's ruling was based on the parties' stipulation to the value of the Bethany Beach property. As a matter of policy, there must be an end to litigation.⁸ Accordingly, we hold that the trial judge did not abuse her discretion by denying Appellant's motion to supplement the record.

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

BY THE COURT:

/s/Henry duPont Ridgely

Justice

⁸ *Bachtel*, 494 A.2d at 1256.