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Mezini v. Mezini, 268 A.3d 1171 (R.I. 2022)

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Family Law. *Mezini v. Mezini*, 268 A.3d 1171 (R.I. 2022). In this case, the Rhode Island Supreme Court concluded that credibility is material to spousal awards in divorce cases because it affirmed the Family Court’s favorable ruling for the party whose spouse’s credibility was concerning.

FACTS AND TRAVEL

The parties married on May 2, 2012, and had a child on January 7, 2013.¹ Elida² began working full-time as a bank teller at Navigant making \$50,000 per year when their child was Eighteen months old.³ Leart is part owner and employee of Wine & Cheese which was formed prior to his marriage and to which he devoted 40-50 hours a week of his time.⁴ Moreover, Leart owns one-half interest in GM Realty, formed on May 2, 2013, after the marriage.⁵ The parties lived at a property in Lincoln, Rhode Island (the Lincoln Property) with their child and Leart’s parents.⁶ Leart purchased the property prior to his marriage and exclusively owned it during the marriage.⁷ He made a down payment and held a twenty-year mortgage on the Lincoln Property.⁸

When Leart began experiencing economic difficulties with the businesses in January of 2017, he took out a HELOC loan secured by the Lincoln Property which he initially testified he used for family expenses.⁹ However, Leart later admitted he used the loan for legal fees regarding a dispute with his partner at Wine & Cheese.¹⁰

1. *Mezini v. Mezini*, 268 A.3d 1171, 1173 (R.I. 2022).
2. The parties’ first names will be used throughout this survey to avoid confusion. No disrespect is intended.
3. *Mezini*, 268 A.3d at 1173.
4. *Id.*
5. *Id.*
6. *Id.*
7. *Id.* at 1173-74.
8. *Id.*
9. *Id.*
10. *Id.* at 1174.

Lear testified that that he was responsible for all withdrawals and payments from the HELOC.¹¹

When Elida worked, Lear or his parents cared for their child. When Elida was not working, Elida testified that she did most of the housework and was the child's primary caretaker. However, Lear testified that his mother did most of the cooking.¹²

The couple's marital problems, centered around housework and raising their child, began one year after their child was born.¹³ Elida initiated the divorce proceedings, and Lear filed a counterclaim, both citing irreconcilable differences.¹⁴ The trial justice found that Elida's testimony was "forthright and credible" whereas Lear's testimony was "less than credible and at times . . . outrageous and completely unworthy of belief."¹⁵

The trial court awarded joint custody of the child and ordered Lear to pay \$277 per week in child support.¹⁶ Additionally, the trial justice found Lear's interest in GM Realty to be marital property and "ordered Lear to pay Elida \$63,750."¹⁷ Moreover, the trial justice ordered Lear to pay Elida half of the increased value of the Lincoln Property during their marriage, amounting to \$45,000.¹⁸ Furthermore, the trial justice did not find the HELOC to be marital property and ordered that Lear remain responsible for the debt.¹⁹ Finally, the trial justice awarded Elida the entire \$20,524 of federal and state tax refunds, allowed Elida to claim their child as a dependent for taxes, awarded Elida the entirety of her retirement plan even though it was marital property, and awarded Elida the title and loan to their 2015 Toyota Highlander.²⁰ Lear appealed the trial court's decision on December 30, 2019. Elida cross-appealed on January 17, 2020.²¹

11. *Id.*
12. *Id.*
13. *Id.*
14. *Id.*
15. *Id.* at 1175.
16. *Id.*
17. *Id.*
18. *Id.*
19. *Id.*
20. *Id.*
21. *Id.*

The Supreme Court affirmed the trial justice's decisions, specifically noting the credibility determinations of Leart and his testimony.²²

ANALYSIS AND HOLDING

In his appeal, Leart argued that the trial justice erred in many of his spousal awards in Family Court. The Rhode Island Supreme Court used a three-part test for the equitable distribution of property consisting of: ". . . (1) determining which assets are marital property; (2) considering the factors set forth in G.L. 1956 § 15-5-16.1(a); and (3) distributing the property."²³

A. *Leart's Claim that the Trial Justice Erred in Awarding Elida One-Half of the Appreciation Value of the Lincoln Property*²⁴

The Court began by considering Leart's claim that the Lincoln Property's appreciation in value during the marriage was a result of market conditions only and not a "result of any efforts made by the parties."²⁵ Section 15-5-16.1(b) states that the court "may assign the appreciation of value from the date of the marriage of property . . . which was held in the name of one party prior to the marriage which increased in value because of the efforts of either spouse during the marriage."²⁶ The trial justice gave great weight to Elida's testimony regarding improvements that were made to the property because he found her testimony to be "forthright and credible," whereas Leart's testimony was "less than credible."²⁷ Justice Lynch Prata found that the trial justice was not wrong in his determination of the parties' credibility and upheld the decision that the property's value increased because of the efforts of either spouse, considering that Elida testified that the spouses made improvements to the house during the marriage.²⁸

22. *Id.* at 1180

23. *Id.* at 1176

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

B. *Lear't's Claim That the Trial Justice Erred in Awarding Entire HELOC Balance to Him and Finding It Was Not Marital Debt*²⁹

Moreover, Lear't argued that the HELOC balance was necessary to "maintain the marital lifestyle."³⁰ The Court also noted that ". . . a trial justice may assign 'marital debt in the same fashion as assignments of marital assets.'"³¹ Here, the HELOC was not marital debt because it was not used for the marriage; Lear't had used the HELOC to pay taxes in 2018, whereas he had previously used cash, and he used it to pay for legal fees unrelated to the divorce.³² Furthermore, the trial justice found Lear't's testimony to be "less than credible" and "unworthy of belief."³³

C. *Lear't's Claim That the Trial Justice Erred in Assigning Elida One-Half Interest in GM Realty*³⁴

Additionally, Lear't argued that Elida did nothing to contribute or participate in GM Realty.³⁵ Section 15-5-16.1(b) states that "property acquired during a marriage is part of the marital estate unless specifically excluded."³⁶ GM Realty was subject to equitable distribution because it was not excluded by Section 15-5-16.1(b).³⁷ Further, the trial justice properly analyzed the relevant statutory factors³⁸ when he assigned Elida one-half interest in the property, finding that Lear't "secreted" substantially more assets than Elida,

29. *Id.* at 1177.

30. *Id.*

31. *Id.*

32. *Id.* Lear't used part of the loan "for legal fees prior to this divorce involving [a] dispute with * * * my partner at Wine and Cheese restaurant[.]" *Id.* at 1174.

33. *Id.* at 1177.

34. *Id.*

35. *Id.*

36. *Id.* at 1178.

37. *Id.* The trial justice noted that Lear't attributed so many of the losses and profits to himself – against the operating agreement of the business.

38. The relevant statutory factors include: (1) the length of the marriage; (2) each party's contribution towards the acquisition, preservation, and appreciation of assets; (3) each party's homemaking contributions; (4) the health and age of the parties; (5) each party's income, occupation, and employability; (6) each party's opportunity for future acquisition of assets and income; (7) defendant's wasteful dissipation and/or encumbrance of assets; and (8) the conduct of the parties during the marriage. 15 R.I. GEN. LAWS § 15-5-16.1(a).

and considered that he allowed his sister to live rent-free in the property owned by GM Realty.³⁹ Moreover, the value of the GM Realty property was based entirely on Elida's expert's appraisal.⁴⁰

D. *Lear's Claim That the Trial Court Erred in Awarding \$277 Per Week in Child Support to Elida*⁴¹

The Supreme Court used precedent that "the appropriate award of child support is to be determined by the trial justice in his or her sound discretion[.]"⁴² The trial justice found that Lear "reduced his salary from Wine & Cheese by approximately \$350 per week when the divorce proceeding commenced," which the trial justice discovered only by comparing Lear's tax returns after Lear "failed to provide the complete financial books and records from Wine & Cheese."⁴³ Critically, the court affirmed the trial court's order granting Elida \$277 per week in child support.⁴⁴

E. *Lear's Remaining Claims*⁴⁵

Next was the issue of Lear's credibility, and lack thereof, due to his intentional concealment of assets to avoid greater alimony.⁴⁶ The trial justice found that Lear concealed marital assets, that Elida was the primary caretaker of their minor child and homemaker, and that Lear manipulated the tax refund amount to be applied when it would only benefit him.⁴⁷ In light of these findings, Justice Lynch Prata determined that the trial justice did not misconceive material evidence, and thus he did not err in the remaining distribution awards.⁴⁸

39. *Id.* at 1178.

40. *Id.*

41. *Id.*

42. *Id.* (citing *Trojan v. Trojan*, 208 A.3d 221, 229 (R.I. 2019)).

43. *Id.*

44. *Id.*

45. Lear made additional claims that the trial justice erred in "awarding state and federal income-tax refunds to the [Elida,] . . . awarding [Elida] a 100-percent interest in her retirement plan and a vehicle, and allowing her to claim the parties' minor child as a dependent on both her state and federal income-tax returns." *Id.* at 1173.

46. *Id.* at 1179.

47. *Id.*

48. *Id.*

F. *Elida's Claim That "The Trial Justice Erred in Failing to Award her One-Half of the Value of the Reduction of the Mortgage on the [Lincoln Property]."*

Furthermore, the Court analyzed whether the Lincoln Property's increase in value was the result of expenditure of marital funds to reduce mortgage encumbrance.⁴⁹ The Court declined to address the issue because the trial court determined that "the Family Court lacks the authority to attribute a reduction in the mortgage on the marital domicile during the marriage, as appreciation towards said asset, for the purposes of equity distribution[.]"⁵⁰

COMMENTARY

The Supreme Court found no error in the trial justice's broad discretion of determining credibility, and the credibility determinations strongly affected the property distribution analysis and awards. Central to this case was Lert's credibility because the trial justice found much of Lert's testimony to be "unworthy of belief."⁵¹ For example, the trial justice found that Lert was outrageously unworthy of belief in his testimony regarding withdrawals from the HELOC.⁵² Furthermore, in analyzing the child support award, the trial justice found that Lert reduced his salary from Wine & Cheese significantly when the divorce proceedings commenced and failed to provide the business's finance records.⁵³

Due to Lert's incredible testimony, the trial justice gave more weight to Elida's. For example, the trial court found that improvements to the Lincoln Property were made, aligning with Elida's testimony over Lert's conflicting and less credible testimony.⁵⁴ Additionally, the trial justice based his determination of the value of GM Realty entirely on Elida's expert appraisal.⁵⁵ Moreover, the trial justice found Elida to be their child's primary caretaker contrary to Lert's testimony that he and his parents played a significant role

49. *Id.* at 1179.

50. *Id.*

51. *Id.* at 1175.

52. *Id.* at 1177.

53. *Id.* at 1178.

54. *Id.* at 1176.

55. *Id.* at 1178.

in raising the child.⁵⁶ In his analysis, the trial justice heavily considered Elida's testimony and gave it more weight at times than Leart's testimony. Therefore, concealment of assets is cause for the trial court to give more weight to the counterparty's testimony.

The Supreme Court then upheld the trial court's decision, confirming the trial justice's broad discretion in distributing property following divorce. Justice Lynch Prata consistently found that the trial justice had properly determined Leart's credibility, which she supported with precedent because she cited cases that give the trial justice broad power in credibility findings during divorce proceedings. In finding that the trial justice had not erred in his credibility determinations, the Supreme Court upheld the trial justice's ability to allow credibility determinations to affect equitable property distribution awards. Therefore, the Supreme Court has confirmed that the trial justice's broad discretion in property distribution following divorce extends to determining a party's credibility.

The case here presents credibility issues that, if allowed without consequence, would be detrimental to one party and the children of the divorce. Take, for example, the child support analysis. By lowering his salary significantly, Leart could have lowered the amount of child support he was obligated to pay. If the Supreme Court had found error here, the child would have fewer resources which would certainly not be in the child's best interest. Moreover, Elida is the child's primary caretaker, so Leart's child support is a critical obligation as a parent. The discretion given to the trial justice is not too broad in this case because the court should discourage asset manipulation during divorce which could adversely affect parties beginning a newly single life.

While some may be concerned that such broad discretion in credibility findings during equitable property distribution in divorce may allow the trial justice too much power, this case does not open that door. The credibility issues here are quite serious with potential adverse effects, resulting from the manipulation of business records and concealment of marital assets. Because the credibility issues are so serious, the Supreme Court has only set precedent for similarly egregious uncredible testimony—and no less—in affirming the trial justice's decisions. Therefore, the Rhode Island Supreme Court has not allowed too much discretion so that trial

56. *Id.* at 1179.

justices do not have too much power in determining property distribution in a divorce.

CONCLUSION

A Rhode Island Family Court justice is allowed broad discretion when determining the equitable distribution of property during a divorce. Included in this power is the broad discretion in finding that each party is credible in their testimony, actions, and candor of revealing marital assets. The Family Court justice's credibility findings can have a significant impact on the spousal awards after divorce.

Maya Maldonado-Weinstein