

'marital homestead,' both the United States Court of Appeals for the Third Circuit and the Appellate Division of the District Court interpreted Title 33 V.I.C. §§ 2305(a), (c) to hold that a "marital homestead" is any 'homestead' [\*18] in which a husband and wife both reside during the marriage and that is owned by one or both of the spouses." *Garcia*, 59 V.I. 758 (V.I. 2013) quoting, *Harvey v. Christopher*, 55 V.I. 565, 572 (V.I. 2011).

Pursuant to the parties' stipulation, IB-29 Estate Solberg is valued at Seven Hundred Twenty Five Thousand Dollars (\$725,000.00) subject to a One Hundred Ten Thousand Dollars (\$110,000.00) mortgage. Although the parties dispute the amount owed to Balbo, they acknowledge that [\*\*25] Balbo Construction is owed money for work it has done on the homestead.<sup>19</sup>

<sup>19</sup> See Civil Complaint, *Balbo v. Julito Francis & Debra Francis*, ST-14-CV-188.

Testimony revealed that Dr. Wright-Francis assumed responsibility for the children's school tuition and cost of other activities during the course of their marriage. Mr. Francis satisfied almost all expenses related to their home including the mortgage property and home insurance payments. Since the parties' divorce, the parties have shared equally their children's expenses and Mr. Francis has continued to pay all real property expenses.

Here, the home located at IB-29 Estate Solberg, St. Thomas appears to satisfy the requirements outlined in Title 33 V.I.C. § 2305(a) since Mr. Francis gained ownership rights when: 1) his mother and sister conveyed the property to him and 2) [\*19] the parties resided in the home from 2005 until they terminated their marriage in 2012. However, the Supreme Court, through *Garcia*, required that further examination is needed when a purported marital homestead is comprised of multiple units like the Solberg property.

In *Garcia*, the parties resided in a two level structure that was partitioned of into four (4) separate independent apartments. The wife argued that the marital homestead constituted all four (4) apartments and consequently, she was entitled to an equitable portion of the homestead. The husband opined that all of the apartments should not count towards the homestead since "(1) it had a dual nature, as portions of the building were rented to tenants, and (2) although Felipe and Edna resided there at some points during their marriage, there were large spans of time during which the parties did not occupy it together." 59 V.I. 758 (V.I. 2013). Ultimately, the *Garcia* Court remanded the matter back to the Superior Court for further consideration without determining which units comprised the marital abode.

Here, the Solberg property is apportioned into three (3) units. The parties resided in the larger unit with their daughters for approximately seven [\*20] (7) years while Mr. Francis' mother lived in a smaller unit. The third unit was used as a home office by Mr. Francis, until he started to use it as his living quarters after the parties divorced. Unlike *Garcia*, the parties did not use their other units as rental property to produce income. Mr. Francis asserted that Joan Francis contributed to her household [\*\*26] expenses for a portion of the time she has lived there. It is also important to note that Mr. Francis' mother resided on the property first and has been the only other resident.

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