

[3] The Court has considered that the parties resided in the Solberg home from 2005-2012 for approximately seven (7) of their twenty one (21) years of marriage with their children. Mr. Francis' mother has occupied an attached apartment on the same property since 2000. They have all contributed in various degrees to the subject property. Both parties are clearly capable of providing for themselves and their children, as they are both accomplished professionals and have already agreed to share equally in the costs of raising their children. Dr. Wright-Francis obviously has the capacity and means to secure alternative housing; and has neither demonstrated a need **[*21]** or desire to remain in the marital homestead.

This Court cannot disregard the fact that neither party purchased the real property upon which the marital homestead was built. Much consideration is given to the fact that Mr. Francis acquired the property from his mother to help her construct a home for her to live. While evidence shows that the parties together were able to finance the construction, they benefitted by living on the property with their children for seven (7) years of their twenty-one (21) years of marriage. Joan Francis has lived in an adjoining apartment for approximately fourteen (14) years. Thus, only the main residential unit (inclusive of what was the home office and children's area) that the parties occupied during their marriage constitute the marital homestead and not the entire property known as IB-29 Estate Solberg.

In view of the circumstances surrounding the acquisition and construction of IB-29 Solberg, maintenance and occupancy of said property, the Court finds that based on a balancing of equities, Mr. Francis should retain possession of the marital homestead. Moreover, having considered the stipulated assessed value of the real property, and the debts associated **[*22]** with the property, and given serious consideration to the equities involved under the particular facts herein, the Court has determined that Dr. Wright-Francis has a thirty-five percent (35%) interest in the marital homestead which constitutes approximately seventy percent (70%) of the developed property. As a result Seventy Six Thousand, Six Hundred Fifty Dollars (\$76,650.00) plus \$30,000.00 reimbursement for moneys expended for constructions costs represents a fair award to **[**27]** Dr. Wright-Francis for her contributions and interest in the marital homestead. Thus, Mr. Francis will be required to pay Dr. Wright Francis a total of One Hundred Six Thousand, Six Hundred Fifty Dollars (\$106,650.00).

B. Personal Property

[4] [HN3] The Court may distribute personal property in accordance with Title 16 V.I.C. § 109 (4). However, the statute does not define marital property. "Whether an asset is marital property or separate property for purposes of distribution of the marital estate, is a matter reserved to the sound discretion of the trial court." See, *Feddersen v. Feddersen*, 68 F. Supp. 2d 585, 41 V.I. 230 (D.V.I. 1999). See also, *MacAleer v. MacAleer*, 1999 PA Super 35, 725 A.2d 829, 831 (1999). Once these distinctions have been made, the trial judge has broad equitable powers in disposing of marital property. *Fuentes*, 38 V.I. at 35, 1997 WL 889532, at *5.

[5] [HN4] Although not specifically defined, marital property **[*23]** has been construed to encompass any property which the couple acquired during the marriage and which is subject to equitable distribution upon divorce. See *Fuentes v. Fuentes*, 247 F.Supp.2d 714

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