

NEW YORK SUPREME COURT

Mandel v. Mandel

109 Misc. 2d 1 (N.Y. Sup. Ct. 1981) · Decided April 6, 1981

SUMMARY

The court holds that, in a matrimonial proceeding, issues concerning custody, exclusive occupancy, support, maintenance, and equitable distribution under Domestic Relations Law § 236 are equitable matters triable by the court rather than by a jury. It permits a jury trial only on the grounds for divorce and strikes the remaining jury demands from the jury calendar.

CASE DETAILS

COURT	New York Supreme Court
WRITING FOR THE COURT	York C. Linakis, J.
JURISDICTION	New York
DECIDED	April 6, 1981
DISPOSITION	other
PROCEDURAL POSTURE	In a matrimonial proceeding, the defendant husband moved to strike the plaintiff's note of issue insofar as it demanded a jury trial on all issues, including divorce, custody, occupancy of the marital home, maintenance, child support, and equitable distribution.
PRECEDENTIAL VALUE	Published trial-court opinion

TOPICS

- family law procedure
- divorce
- equitable distribution
- spousal support
- civil procedure

PRACTICE AREAS

- family law
- civil procedure
- constitutional law

QUESTIONS PRESENTED

- Whether a party to a matrimonial action has a right to a jury trial on custody, exclusive occupancy of the marital residence, maintenance, and child support.
- Whether equitable distribution of marital property under Domestic Relations Law § 236, part B, is triable by jury.
- Whether the grounds of divorce remain triable by jury under New York law.

HOLDINGS

1. Those matters are equitable and incidental to the matrimonial relationship; therefore, they must be tried by the court rather than by a jury.
2. Equitable distribution of marital property under Domestic Relations Law § 236, part B, is an equitable matter and is not subject to a jury trial.
3. The grounds of divorce remain triable by jury under New York law.

KEY QUOTATIONS

“Although the right to a jury trial with respect to the issue of divorce is in direct derogation of the equitable powers of the court, the equitable powers of the court still remain for all other matters incidental to a matrimonial proceeding.” (at 3)

“Therefore, distribution of marital property pursuant to part B of section 236 of the Domestic Relations Law being a matter of equity, there is no right to a jury trial under this statutory provision.” (at 4)

FACTUAL BACKGROUND

The case is a matrimonial proceeding involving claims concerning divorce, custody of an infant child, exclusive occupancy of the marital residence, maintenance, child support, and distribution of marital property. The plaintiff demanded a jury trial on the divorce grounds and on matters governed by Domestic Relations Law § 236, part B, characterized as equitable distribution. The defendant challenged the jury demand, and the plaintiff conceded that custody, occupancy, support, and maintenance were equitable matters for the court.

PROCEDURAL HISTORY

The plaintiff placed the matrimonial action on the jury calendar and demanded a jury trial on divorce and related issues. The defendant moved to strike the jury demand. The plaintiff conceded that custody, occupancy, support, and maintenance were not triable by jury but maintained that equitable distribution under Domestic Relations Law § 236, part B, was. The court struck the jury demand as to all matters except the grounds of divorce.

DISPOSITION

other

CASES CITED

- Cohen v. Cohen, 160 App. Div. 240
- Allan v. Allan, 63 N.Y.S.2d 924
- Reubens v. Joel, 13 N.Y. 488
- Powell v. Waldron, 89 N.Y. 328
- Conderman v. Conderman, 44 Hun 181
- Wynehamer v. People, 13 N.Y. 378
- Eliot v. Eliot, 70 A.D.2d 612

- Bush v. Bush, 103 App. Div. 588

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