

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Vilca v. Kim

2026 NY Slip Op 01088 · No. 2023-07401 · Decided February 25, 2026

SUMMARY

The Appellate Division, Second Department affirmed an amended judgment of divorce insofar as it awarded the plaintiff a separate property credit for funds contributed toward the marital residence and awarded the defendant maintenance of \$2,400 per month for one year. The court held that the plaintiff overcame the presumption that commingled funds were marital property and that the maintenance award was a provident exercise of the trial court's discretion.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Barry E. Warhit, J.P.; Helen Voutsinas, J.; James P. McCormack, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	February 25, 2026
DOCKET	2023-07401
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an amended judgment of divorce, insofar as it awarded plaintiff a separate-property credit for funds used to purchase the marital residence and awarded defendant maintenance of \$2,400 per month for one year.
STANDARD OF REVIEW	The amount and duration of maintenance are reviewed for abuse of discretion; the appellate court also reviewed whether the trial court properly applied the marital-property presumption and whether plaintiff established the separate nature of commingled funds by clear and convincing evidence.
PRECEDENTIAL VALUE	published
PARTIES	Natalia Kim v. Raul Vilca

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QUESTIONS PRESENTED

1. Whether plaintiff established that funds contributed toward the purchase of the marital residence were separate property despite defendant's later addition to the account.
2. Whether the trial court abused its discretion by awarding defendant maintenance of \$2,400 per month for only one year.
3. Whether any remaining contention raised by defendant warranted reversal.

HOLDINGS

1. The trial court properly awarded plaintiff a \$226,557 separate-property credit because plaintiff presented sufficient evidence to overcome the presumption that commingled funds in a joint account were marital property.
2. The trial court's award of maintenance of \$2,400 per month for one year was a provident exercise of discretion and was affirmed.

KEY QUOTATIONS

*“Where a party contributes his or her separate property toward the purchase of a marital asset, such as a marital residence, the party should be given a credit for the amount so contributed prior to the equitable division of the asset” (*1)*

*“To overcome a presumption that commingled property is marital property, the party asserting that the property is separate must establish by clear and convincing evidence that the property originated solely as separate property and the joint account was created only as a matter of convenience, without the intention of creating a beneficial interest” (*1)*

*“The overriding purpose of a maintenance award is to give the spouse economic independence, and it should be awarded for a duration that would provide the recipient with enough time to become self-supporting” (*2)*

*“The amount and duration of maintenance is a matter committed to the sound discretion of the trial court, and every case must be determined on its unique facts” (*2)*

FACTUAL BACKGROUND

The parties married in June 2011, and the marital residence was purchased in September 2011. Plaintiff contributed approximately \$277,000 toward the down payment and closing costs, primarily from premarital earnings deposited in an account originally held in his name alone. Defendant was added to the account two to

three months before closing but contributed no funds. The trial court awarded plaintiff a \$226,557 separate-property credit and awarded defendant maintenance of \$2,400 per month for one year.

PROCEDURAL HISTORY

Plaintiff commenced an action for divorce and ancillary relief in May 2016. After a nonjury trial addressing equitable distribution and maintenance, the Supreme Court, Kings County, issued a decision and entered an amended judgment awarding plaintiff a \$226,557 separate-property credit and defendant maintenance of \$2,400 per month for one year. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Westreich v Westreich, 169 AD3d 972, 977
- Sinnott v Sinnott, 194 AD3d 868, 871
- Signorile v Signorile, 102 AD3d 949, 950
- Renck v Renck, 131 AD3d 1146, 1149
- Wade v Steinfeld, 15 AD3d 390, 391
- Sherman v Sherman, 304 AD2d 744, 744
- Mahoney v Mahoney, 197 AD3d 638, 639
- Torkin v Susac, 236 AD3d 1082, 1085
- D'Iorio v D'Iorio, 135 AD3d 693, 695
- Culen v Culen, 157 AD3d 926, 928

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