

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

Capdevila v. Capdevila

2026 NY Slip Op 00490 · No. 2024-05088 · Decided February 4, 2026

SUMMARY

The New York Appellate Division, Second Department, affirmed an order denying the plaintiff’s motion concerning the equal allocation of approximately \$7,500 in marital mortgage arrearages. The court held that the motion did not provide a basis for renewal or reargument under CPLR 2221 and was properly denied insofar as it sought relief under CPLR 5015(a).

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Colleen D. Duffy, J.P.; Valerie Brathwaite Nelson, J.; Barry E. Warhit, J.; Janice A. Taylor, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	February 4, 2026
DOCKET	2024-05088
DISPOSITION	affirmed
PROCEDURAL POSTURE	In a consolidated divorce and ancillary-relief action, the plaintiff appealed from an order denying the branch of her motion seeking relief from an earlier order requiring the parties to share certain marital debt equally.
PRECEDENTIAL VALUE	published
PARTIES	Erin Capdevila v. Ian Capdevila

TOPICS

- divorce
- family law procedure
- motion for reconsideration
- appellate procedure
- equitable distribution

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure
- real estate

QUESTIONS PRESENTED

1. Whether the plaintiff's motion could properly be treated as a motion for renewal or reargument under CPLR 2221 when it did not relate to a prior motion.
2. Whether the plaintiff was entitled to vacatur under CPLR 5015(a) of the portion of the prior order requiring equal sharing of the marital debt.
3. Whether the plaintiff's remaining contention was properly before the Appellate Division.

HOLDINGS

1. A motion denominated as one for renewal or reargument provides no basis for such relief when it does not relate to a prior motion of the parties.
2. The denial of the plaintiff's request to vacate the portion of the September 26, 2023 order directing equal sharing of approximately \$7,500 in marital debt was proper.
3. The plaintiff's remaining contention was not properly before the Appellate Division.

KEY QUOTATIONS

“Initially, that branch of the plaintiff's motion, denominated as one for leave to renew and reargue, did not relate to a prior motion of the parties and, therefore, provided no basis for renewal or reargument” ([*1])

“The plaintiff's remaining contention is not properly before this Court.” ([*1])

FACTUAL BACKGROUND

The underlying action involved a divorce and ancillary relief. An order directed the parties to share equally approximately \$7,500 in marital debt consisting of mortgage arrears encumbering the marital residence. The plaintiff sought to vacate that portion of the order.

PROCEDURAL HISTORY

The Supreme Court, Richmond County, entered an order dated September 26, 2023, directing the parties to share equally approximately \$7,500 in marital debt consisting of mortgage arrears on the marital residence. The plaintiff subsequently moved under the labels of renewal and reargument, but the motion was treated as seeking vacatur under CPLR 5015(a). The Supreme Court denied that relief in an order dated February 28, 2024, and the Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Rusachenko v. Lipkin, 228 AD3d 793, 793

OPINION

PER CURIAM.

Capdevila v Capdevila (2026 NY Slip Op 00490) Capdevila v Capdevila 2026 NY Slip Op 00490
Decided on February 4, 2026 Appellate Division, Second Department Published by New York
State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and
subject to revision before publication in the Official Reports. Decided on February 4, 2026
SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial
Department COLLEEN D. DUFFY, J.P.

VALERIE BRATHWAITE NELSON BARRY E. WARHIT JANICE A. TAYLOR, JJ. 2024-05088
(Index No. 55375/22) [*1]Erin Capdevila, appellant, v Ian Capdevila, respondent. Gina-Marie
LoBraico-Reitano, Staten Island, NY, for appellant. DECISION & ORDER In a consolidated
action for a divorce and ancillary relief, the plaintiff appeals from an order of the Supreme Court,
Richmond County (Paul Marrone, Jr., J.), dated February 28, 2024.

The order, insofar as appealed from, denied that branch of the plaintiff's motion, denominated as
one for leave to renew and reargue, but which was, in actuality, one pursuant to CPLR 5015(a) to
vacate so much of an order of the same court dated September 26, 2023, as directed that certain
marital debt be shared equally by the parties. ORDERED that the order dated February 28, 2024,
is affirmed insofar as appealed from, without costs or disbursements.

Initially, that branch of the plaintiff's motion, denominated as one for leave to renew and reargue,
did not relate to a prior motion of the parties and, therefore, provided no basis for renewal or
reargument (see CPLR 2221).

To the extent that that branch of the plaintiff's motion was, in actuality, pursuant to CPLR 5015(a)
to vacate so much of an order dated September 26, 2023, as directed the parties to share equally
certain marital debt in the sum of approximately \$7,500, consisting of arrears that had accrued on
a mortgage encumbering the marital residence, that branch of the motion was properly denied (see
Rusachenko v Lipkin, 228 AD3d 793, 793).

The plaintiff's remaining contention is not properly before this Court. DUFFY, J.P.,
BRATHWAITE NELSON, WARHIT and TAYLOR, JJ., concur. ENTER: Darrell M. Joseph Clerk
of the Court