

**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 arrears. 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).

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