

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D17490
C/kmg

_____AD3d_____

Argued - December 7, 2007

WILLIAM F. MASTRO, J.P.
FRED T. SANTUCCI
ROBERT A. LIFSON
JOSEPH COVELLO, JJ.

2007-02608

DECISION & ORDER

Brenda Michelini, appellant, v
Bradford Michelini, respondent.

(Index No. 33073/02)

Dikman & Dikman, Lake Success, N.Y. (Michael Dikman of counsel), for appellant.

Sager and Gellerman, Forest Hills, N.Y. (Esther Chyzyk Bernheim and Audrey M. Sager of counsel), for respondent.

In an action for a divorce and ancillary relief, the plaintiff wife appeals, as limited by her brief, from stated portions of a judgment of the Supreme Court, Queens County (Strauss, J.), entered February 23, 2007, which, after a nonjury trial, inter alia, awarded the defendant 50% of the appreciation of the value of the marital residence.

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

The trial court properly awarded the defendant 50% of the appreciation of the value of the marital residence. Although the residence was the separate property of the plaintiff, the defendant established that the subsequent appreciation of the value of the marital residence was attributable to their joint efforts and, therefore, he was entitled to the award by the trial court (*see Hartog v Hartog*, 85 NY2d 36, 48; *Price v Price*, 69 NY2d 8, 11; *Massimi v Massimi*, 35 AD3d 400; *Chan v Chan*, 267 AD2d 413; *Lagnena v Lagnena*, 215 AD2d 445).

January 29, 2008

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The plaintiff's remaining contention is without merit.

MASTRO, J.P., SANTUCCI, LIFSON and COVELLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court