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- Citation:** *Mumma v. Mumma*, 280 A. 2d 73 (D.C. Cir. 1971).
- Parties:** Albert G. Mumma/Husband/Defendant/Appellant/Petitioner
Jean M. Mumma/Wife/Plaintiff/Appellee/Respondent
- Objectives:** Appellant/Husband, Albert Mumma, challenging prior courts holding not on the divorce itself but on (a) the division of real property, (b) the amount of alimony and child support declared by the court, (c) payment of wife's legal fees, and (d) restriction of visitation with the couple's children.
- Appellee/Wife, Jean Mumma, seeks to affirm the lower court's decisions on all the matters above.
- Cause of Action:** Plaintiff/Wife claims entitlements to (a) division of real property under basis of properties being purchased by Albert Mumma, most of them jointly, during the course of the marriage; (b) Alimony and legal fees based Albert Mumma's adultery, Abandonment and voluntary separation from her; (c) child support based on the couple's three children and Mr. Mumma's current income; and (d) child visitation as set forth by the courts.
- Defense:** Husband/Defendant challenges court's decision on (a) division of real property under the defense that some of the properties that Mrs. Mumma was granted half equity in were not held in tenants by the entirety and distribution of properties held by tenant by the entirety was not equitable; (b) amount of alimony, child support and legal fees for his wife under the basis that his monthly income is not great enough to cover those costs; (c) rights to visitation with the couple's three children as the biological father of the children, and (d) decision requiring him to provide financially for the eldest child's college education since at that time he would be at the age of majority and based on his income this ruling was not justified.
- Prior Proceedings:** Case was heard in D.C. Court of General Sessions where divorce was awarded to the Plaintiff along with specified interests in real property, legal fees, alimony, child support and custody of the three children.
- Present Proceeding:** Defendant is appealing the lower court's rulings on awarded interests of real property, child support, alimony, legal fees and child custody to the Superior Court of D.C.
- Key Facts:** Albert and Jean Mumma were married in 1952. They have three minor children. During the marriage, Mrs. Mumma and the children were supported by Mr. Mumma. Albert Mumma purchased two pieces of property, one for the family residence on 35th street and one rental property and office space property on Wisconsin Avenue. Both properties were held as tenants by the entirety. Mr. Mumma also purchased two parcels of land in Langley, VA that were under his name alone. The couple separated after a violent altercation in January 1968.

One month after the separation, Mr. Mumma met another woman and shortly after, they moved in together at the apartment/office complex on Wisconsin Avenue. The wife was granted divorce by the court under grounds of adultery due to this relationship. The court awarded the Wisconsin Avenue property to Albert Mumma and the 35th Street property to Jean Mumma. The court also awarded Jean Mumma fair equity in the properties in Langley, VA. The husband states the equitable distribution of the Wisconsin Avenue and 35th Street homes is not equal based on a financial statement filed July 23, 1968 whereby the equity in the Wisconsin Avenue home was \$23,000 and the equity in the 35th Street home was \$46,000. Albert Mumma also argues that the his wife was not entitled to equity in the properties in Langley, VA because they were held in severalty by him with no financial contribution from his wife. The trial court awarded Jean Mumma full custody of the couple's three children, \$200 per month in alimony, \$500 per month in child support and \$2500 in legal fees. This means the husband was ordered to pay \$8400 per year in alimony and child support when he reported a net income of \$9422 in 1968 and \$12,726 in 1969. Mr. Mumma also disputes the court's decision to provide financially for the college tuition of the couple's oldest child.

Issues: Whether or not the court's distribution of real property was equitable or not. Whether or not the amount of alimony, child support and legal fees awarded to the Plaintiff were fair, just and equal. Whether or not the court made the right decision in awarding full custody of the three minor children to the Plaintiff. Whether or not the court was correct in requiring Albert Mumma to provide financially for the couple's eldest child's college education.

Holding: The court of appeals holds that the distribution of real property for the Wisconsin Avenue and 35th Street properties was equitable and not to be overruled. Mrs. Mumma was not entitled to equity from the Langley, VA properties that were not held as tenants by the entirety and thus reversed the decision to award those amounts. This was based on the fact that in other cases, properties not held jointly by both husband and wife could not be distributed at the time of a divorce. The issues of child support, alimony and legal fees were remanded back to the trial court for rehearing and further findings based on inconsistencies in Albert Mumma's reported income. The trial court is instructed to look for affirmative evidence of Jean Mumma's claims that her husband was not being truthful about his income statements. The court is to accept Albert Mumma's 1971 tax returns as a guide to his actual income if Jean Mumma cannot provide this evidence. The issue of providing for the eldest child's college education was remanded back to trial court under the basis that Albert Mumma's income must be accurately confirmed before this decision can be properly made. The court's decision to grant custody to Jean Mumma was affirmed under the basis that they believe the lower court held discretion and properly knew how to rule on this issue.

Disposition: Affirmed in part. Reversed and remanded in part.