

Third District Court of Appeal

State of Florida, January Term, A.D. 2012

Opinion filed February 1, 2012.

Not final until disposition of timely filed motion for rehearing.

No. 3D11-109

Lower Tribunal No. 08-27133

Rodolfo Toral,

Appellant,

vs.

Maria Elena Toral,

Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Alan R. Schwartz, Judge.

Jorge L. Gonzalez, for appellant.

Marcelo M. Agudo, for appellee.

Before RAMIREZ, LAGOA, and FERNANDEZ, JJ.

PER CURIAM.

We affirm the trial court's final judgment of dissolution which determined that certain funds were marital property. Here, the husband did not only commingle the funds, but he also agreed to transfer the entire account to the wife's

mother to earn a higher interest rate. See Hay v. Hay, 944 So. 2d 1043, 1046 (Fla. 4th DCA 2006) (“The trial court is the judge of the facts and the credibility of the witnesses. We cannot conclude that the trial court abused its discretion in determining that the husband failed to carry his burden of proving no gift was intended.” (internal citations omitted)).

Affirmed.