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Justices to hear challenge to 1979 opinion in *Hewitt*

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SPRINGFIELD — A Cook County judge's lawsuit against her domestic partner of 26 years will face scrutiny from the state's top court.

The Illinois Supreme Court on Wednesday accepted an appeal regarding Circuit Judge Eileen M. Brewer's dispute over the home she purchased in 1999 with her then-partner, Dr. Jane E. Blumenthal.

Since the dispute over the division of the home has been resolved, the case now centers on the validity of 36-year-old Supreme Court precedent denying certain claims for unmarried couples.

The case is one of 11 appeals — two civil cases and nine criminal cases — the high court agreed to consider. It denied 142 appeals outright and in two other appeals gave orders to lower courts on how to proceed.

Blumenthal and Brewer began living together in the early 1980s, well before Illinois recognized civil unions or same-sex marriage.

They had three children together, shared assets and purchased a home together on Kimbark Avenue in 1999 after years in which Blumenthal was the primary breadwinner while Brewer, who became a judge in 2002, looked after the home and children.

In 2008, however, Blumenthal moved out; two years later, she filed suit to have the home legally partitioned.

Brewer counterclaimed on multiple counts, including unjust enrichment — an implied contract claim stating that she had made the payments on the home since 2009 despite the fact Blumenthal had far more wealth.

Blumenthal sought to have the claim dismissed, arguing that the 1979 case *Hewitt v. Hewitt* made implied contract claims for non-married cohabitants untenable.

In that case, a woman's attempt to split assets with the man she lived and raised children with — but never married — was rejected because state law had ceased to recognize common-law marriage.

Blumenthal argued that *Hewitt* emanated from ongoing public policy seeking to dissuade individuals from living together without some type of intervention by the government.

Brewer argued that *Hewitt* is no longer valid because family law has undergone seismic shifts since the decision was rendered. These include laws sanctioning non-marital cohabitation, no-fault divorce and civil unions, to name a few.

A three-judge appellate court panel in December found merit in both sides' claims. But citing many of the changes Brewer mentioned, the appeals court ruled that continuing to apply the decision "is no longer justified."

"*Hewitt* relied on Illinois' former policy of discouraging cohabitation between unmarried parties and disfavoring non-marital children. The court referred to the 'traditional' rule in effect in 'all jurisdictions' that enforcing property rights between former cohabitants amounts to enforcing a bargain in which all or part of the consideration has been illicit sexual intercourse," wrote Justice Margaret Stanton McBride of the 1st District Appellate Court.

"Since *Hewitt* was decided, however, Illinois' public policies toward non[-]marital relationships and non[-]marital children have significantly changed."

McBride was joined in the decision by Justices Robert E. Gordon and Jesse G. Reyes. It vacated the judgment of Cook County Circuit Judge LeRoy K. Martin Jr.

Angelika Kuehn of Angelika Kuehn Law Office in Oak Park represented Brewer and said she's not surprised the Supreme Court took up the case. Part of the reason the court may want to weigh in, she said, is because society has become more open to so-called non-traditional relationships.

"I think that now judges, along with other members of the general community, recognize that people in non-traditional relationships have very strong, good, thriving families that support the fabric of society," Kuehn said. "They are seeing that some of the old prohibitions against those relationships no longer make sense."

Reuben A. Bernick, a sole practitioner who represented Blumenthal, said even though the property dispute has been resolved, if the high court hadn't agreed to hear this case, "then we would have what I would think would be a very confusing and untenable situation in terms of the law because you would have one division of the 1st District Appellate Court disagreeing with other appellate courts."

The case is *Jane E. Blumenthal v. Eileen M. Brewer*, No. 118781.

One case the Supreme Court declined to hear was an appeal by a suburban school board member who was removed from office after his 1985 felony conviction for forgery in Indiana came to light.

Kenneth J. Williams was elected to the Thornton Township High School District 205 Board in 2009 and elected its president three years later.

But in early 2013, Cook County State's Attorney Anita M. Alvarez challenged his eligibility to hold the seat under a state law that prohibits people from holding some political offices if they've been convicted of an "infamous crime."

He was ousted in October of that year, and a 1st District Appellate Court upheld the removal last December — roughly a month after he was reappointed to a different seat on the board after another member stepped down.

A court challenge to his second stint on the board is ongoing.

The case denied by the high court was *Anita Alvarez v. Kenneth J. Williams*, No. 118786.