

CANADA / JUDGMENT

Bordignon v. Bordignon

2025 BCSC 2287

COURT

Supreme Court of British Columbia

DECIDED

20 November 2025

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2025 BCSC 2287 Bordignon v. Bordignon

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Bordignon v. Bordignon,

2025 BCSC 2287

Date: 20251120

Docket: E127941

Registry: Kelowna

Lucille Bordignon also know as Lucille Puglisi

Claimant

And

Mark Angelo Bordignon, Giovanni Bordignon, Rebo Beton Pumping Ltd., 461334 B.C. Ltd. and
Rebo Beton Pumping Placing Finishing Ltd.

Respondents

Before: The Honourable Justice Hardwick

Reasons for Judgment re: Sale of Family Home

The Claimant, appearing on her own behalf:

L. Bordignon

Counsel for the Respondents, Mark Angelo Bordignon, and Rebo Beton Pumping Ltd.:

D.M. King

No other appearances

Place and Date of Hearing:

Kelowna, B.C.

November 14, 2025

Place and Date of Judgment:

Kelowna, B.C.

November 20, 2025

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Overview

- [1] These are my reasons judgment in respect of the notice of application filed by the personal respondent, Mark Bordignon ("Mark"), on November 10, 2025, to approve the sale of the former family home located at 1202 Trevor Drive, West Kelowna (the "Home"), together with several ancillary orders in relation to facilitating the proposed sale (the "Sale Approval Application"). The Sale Approval Application is opposed by the claimant, Lucille Bordignon ("Lucille").
- [2] Lucille filed a cross-application on November 12, 2025, seeking a very broad array of orders against Mark which primarily involve Bordignon Family Holdings Ltd. ("Bordignon Holdings"). Bordignon Holdings is not a party to this family law action, but is a company which, simplistically stated, Mark is a shareholder of, and which Lucille has a beneficial interest in Mark's shareholdings by virtue of court order. The specific relief sought in Lucille's cross-application (the "Bordignon Holdings Application") is set forth, verbatim, in Appendix "A" to these reasons. The Bordignon Holdings Application is opposed by Mark.

Background

- [3] This is my fourth set of reasons for judgment in respect of issues concerning the sale of the Home over the last four months, two of which were contemporaneous oral reasons delivered from the bench and one of which was written and published. The published decision, which primarily concerns Mark's application for a stay of my child and spousal support orders pending appeal, is indexed at 2025 BCSC 1899: see paras. 57-69 (the "Stay Reasons").
- [4] Notwithstanding my prior decisions, I am going to briefly cover the relevant factual background upon which the Sale Approval Application and, to a lesser extent, the Bordignon Holdings Application is brought.
- [5] Since this family law action was commenced back in June 2020, Mark has had exclusive occupancy of the Home. Mark has accordingly been solely responsible for all regular financial obligations relating to the Home; as well as being generally responsible for servicing the significant debt secured against the Home. I will, by necessity, return to that secured debt and other charges presently registered against title to the Home.
- [6] At the trial of this proceeding, which was conducted before Mr. Justice Betton over the course of 20 days in late 2023 and early 2024, the value of the Home was a disputed issue. Ultimately, after considering the expert evidence tendered and hearing counsels' submissions, Justice Betton valued the Home at \$1,500,000 in his reasons for judgment which were released on July 10, 2024, and indexed at 2024 BCSC 1226 (the "Trial Reasons"). As Justice Betton stated at paras. 129-142 of the Trial Reasons:

Matrimonial Home - 1202 Trevor Drive, West Kelowna, BC

- [129] The parties obtained a joint appraisal placing the value of the home at \$1.5 million.
- [130] [Lucille] argues the Court should conclude that the value is between \$1.6 and \$1.9 million.
- [131] [Mark] accepts the appraisal as accurate.
- [132] [Mark] agrees that there are debts associated to the home as set out by [Lucille] in her argument as follows:

DEBTS

VALUE

RBC Mortgage - [. . .265-001] (1202 Trevor Drive West Kelowna, BC) - in 2020 it was \$287,436.44
\$451,158

RBC Home Line of Credit -[. . .543-001] (in 2020 it was \$144,278.36)
\$184,665

Equitable mortgage against family home secured for FH&P Lawyers and Fletcher King Law Corp.

(\$200,000 each)

\$400,000

TOTAL DEBTS \$1,035,823

[133] Included within the mortgage and line of credit is \$200,000 that was borrowed to fund the litigation pursuant to the order of Justice Hori made November 27, 2020. The relevant provisions of that order are set as follows in paras. 1-3:

THIS COURT ORDERS that and BY CONSENT:

1. The parties will use their continuing best efforts to jointly borrow the sum of \$200,000, by way of a secured line of credit on the former matrimonial home (the "Proceeds"). From these proceeds, the sum of \$10,000 will be placed in a joint bank account and arrangements will be jointly made to have the carrying costs relating to this \$200,000 borrowing paid from that account. Neither party will access or use the account for any other purpose without the parties written consent or further order of the court.
2. The remainder of the Proceeds will be divided \$95,000 to the claimant and \$95,000 to the respondent.
3. The parties will use their respective share of the Proceeds to equally contribute to the business valuation report and the appraisal of the matrimonial home, together with other litigation related expenses.

[134]

[135] [Lucille] suggests the appraisal report of Mr. Rayburn should be given little weight because the property is unique, which led to challenges finding suitable comparables.

[136] The BC Assessment valuation of the home for July 2022 was \$1.608 million, but I note the passage of time from that assessment to the trial date is significant. The appraisal report of Mr. Rayburn refers to the general market trends in this way:

Despite ongoing concerns with the Covid-19 pandemic declared in March 2020, demand for single family properties remained strong based on the supply and demand balance with most areas indicating increased demand due to limited supply. Extraordinarily low interest rates maintained in an attempt to support the economy caused an overstimulation of the housing market, combined with restrictions on materials supply chains due to the pandemic resulted in market trend increases well beyond target inflation. This imbalance carried on until March 2, 2022, when the Bank of Canada announced the first of what would become a series of increasing rates including the highest overnight rate increase since 1998 of 1%.

. . . Following the peak in the spring and early summer of 2022, demand fell and while values were declining compositional shifts appear to have reflected greater declines than probable values. Higher priced units were not selling at the same pace and more affordable units and locations were taking up a greater share of market activity.

[137] Every property is of course unique, but there are features of this particular property that perhaps make that characterization more applicable. Again, from the report of the appraiser was this observation:

Due to limited similar comparables an analysis of the broader market and historical sales was considered to be appropriate. This included developing a reasonably probable condition adjustment spanning the prior 10 years and including the most recent sale of the subject property in 2013. . . .

[138] It is thus unsurprising that a review of comparables referenced in the report may not appear to be ideal and that significant adjustments were required in referencing the comparables that were utilized. It is this process that is criticized by the claimant in her submissions.

[139] There was no cross-examination of the appraiser.

[140] The difficulty is that, while [Lucille] is critical of those comparables, her submissions that the value should be \$1.6 to \$1.9 million is itself not specifically supported.

[141] It is of course true that the value of a property is only actually determined by a sale. Here the best evidence of the value is the appraisal report. While not perfect, I also do not find that the claimant has established a basis to reject it nor a basis to support her assertion of the value being \$1.6 to \$1.9 million, an upward variation of up to almost 19%.

[142] I conclude that the value of the home for purposes of this litigation should be fixed at \$1.5 million.

[7] In valuing the home at \$1,500,000, I judicially surmise that there was some reasonable expectation that Mark would buy out Lucille's interest in the Home as there was no order made for sale of the Home, even by default, by Justice Betton. That expectation did not come to fruition. In advancing her conspiracy and unjust enrichment claims at trial, Lucille also proposed a remedy that would potentially see the Home transferred to her: see para. 232 of the Trial Reasons. As these particular claims were ultimately dismissed in their entirety by Justice Betton, nothing became of this either.

[8] Accordingly, when I was appointed the ex mero motu trial judge in place of Justice Betton on November 4, 2024, the status quo was that Mark had exclusive occupancy of the Home and was servicing both the regular expenses and the secured debt associated with the Home. As Lucille had not been paid out for her interest in the Home, she continued to maintain a certificate of pending litigation registered against title to the Home.

Post Trial Orders Regarding the Home

- [9] As part of the judicial settlement conference conducted on March 6 and 7, 2025, over which I presided with the express consent of all parties, Mark and Lucille agreed on the terms of an order pursuant to which the Home was listed for sale with the parties having joint conduct of sale (the "Consent Order"). One of the express terms of the joint conduct of sale is that any sale must be either agreed upon by the parties or approved by the court. This term effectively addressed the fact that Mark is the sole registered owner on title to the Home and it was intended that the parties be on a level playing field in dealing with issues associated with the sale of the Home.
- [10] The Consent Order provides that the original list price of the Home is agreed to be \$1,900,000. This was the price advocated for by Lucille, which position was consistent with her submissions at trial. The listing agent, Mr. Cal Chepil, was also put forward by Lucille and agreed to by Mark. In raising these two points, it is necessary to acknowledge that although the Consent Order was spoken to in the context of the settlement conference, this issue was, practically speaking, handled somewhat discretely as a case management issue wherein I simply assisted the parties in reaching consensus to avoid having the matter come back before me pursuant to an application in several weeks time simply to reach the same outcome - namely that the Home needed to be listed for sale forthwith and any issues associated with the same would, failing agreement, be addressed by me in a timely fashion.
- [11] It is also a specific term of the Consent Order that the Home shall not be sold to any non-arm's length person or corporation without the written agreement of Mark and Lucille, or court order. Subject to the latter caveat, which provided the court residual jurisdiction to potentially approve a non-arm's length sale, the Consent Order does not contemplate either party buying out the interest of the other party in the Home. The intention of the Consent Order, as I just indicated, was to get the Home on the market as soon as possible heading into spring and have it sold for fair market value to an arm's-length purchaser(s).
- [12] In accordance with the Consent Order, the Home was put on the market on or about March 28, 2025. The brief delay having been contemplated in the Consent Order to allow Mark some additional time to ensure the Home was ready for photographs and (hopefully) showings. Further, and again accordance with the Consent Order, Mr. Chepil was the listing agent, and the list price was set at \$1,900,000. Mark alone signed the listing contract.
- [13] There was only one showing of the Home at the original list price and the feedback from the interested parties' realtor was that the Home was significantly overpriced, particularly due to current market conditions.
- [14] On July 4, 2025, Mark filed an application to reduce the list price of the Home down to \$1,500,000 or, in the alternative, that there be a further joint appraisal. The proposed price reduction was supported by Mr. Chepil who suggested this was the appropriate price point for a "motivated buyer".

- [15] On July 17, 2025, I ordered that the list price of the Home be reduced to \$1,750,000. I did so on the basis that such a large price reduction (namely down some \$400,000 to \$1,500,000) within such a relatively short timeframe since listing would be tantamount to a fire sale as opposed to a motivated buyer sale. I did, however, give Mark the right to apply for a further price reduction after 60 days.
- [16] There were no showings when the Home was listed \$1,750,000.
- [17] On September 11, 2025, Mark filed a requisition resetting his prior application to reduce the list price of the Home - this time seeking a price reduction down to \$1,525,000. The price reduction was again supported by Mr. Chepil.
- [18] On October 1, 2025, I ordered that the list price be reduced but not to the extent sought by Mark. Rather, I ordered that the list price be reduced to \$1,650,000. I did so in recognition of market conditions and ongoing lack of interest in the Home, but again with a view to ensure there was adequate exposure on a motivated seller basis versus a fire sale basis. I gave Mark the right to apply for a further reduction after 60 days (which I did in contemplation of the anticipated winter lull in the market that regularly occurs over the holiday season). This is briefly set forth in the Stay Reasons as referred to above.
- [19] In the intervening time, Lucille filed an application on September 24, 2025, to change the listing agent for the Home (the "Listing Agent Application"). The Listing Agent Application was adjourned at my initiative on the first occasion it was set before me to allow the parties to bring forward better evidence - specifically a copy of the listing contract with Mr. Chepil which would set forth the precise duration of said contract and the relevant termination provisions.
- [20] On October 31, 2025, the Listing Agent Application came on for hearing before me again. The additional evidence adduced established that the listing contract for the Home was not set to expire until December 31, 2025. The new evidence further established Mr. Chepil had been approached and would not agree to an early termination of the listing contract without still being entitled to compensation if a sale were to occur during the remaining term of the contract.
- [21] In light of that, I ordered that same day that the Home would continue to be listed by Mr. Chepil for the balance of the contract but then directed that Mr. Geoff Hall of Sotheby's International would be the new listing agent if the Home was not sold or under a contract of purchase and sale by December 31, 2025. I also delayed Mark's ability to apply to further reduce the list price of the home for 60 days from the date that Mr. Hall took over the listing to give Mr. Hall an opportunity to sell the home with a list price of \$1,650,000 should it not be under contract before the end of Mr. Chepil's listing contract.

Material Events since October 31, 2025

- [22] The reduction of the price to \$1,650,000 pursuant to my October 31, 2025, order did generate some interest in the Home.
- [23] That interest has also finally produced an arm's-length offer from two individuals who I glean from the affidavit materials and submissions are married and may have minor children. I am electing not to name these individuals and simply refer to them as the "Prospective Purchasers" as it is not suggested by Lucille that they are not arm's length to Mark.
- [24] Of concern to Lucille is the fact that the agent for the Prospective Purchasers has had business dealings over the years with Mark and Rebo Beton Pumping Ltd. ("Pumping"). It was partially based on these concerns raised by Lucille that I selected Mr. Hall as the future listing agent if the Home was not under contract by December 31, 2025, in lieu of this agent (and several other suggestions). More significantly, however, I was simply impressed by Mr. Hall's clear communication protocols and what appeared to be his experience in managing joint conduct of sale in a complicated marital breakdown situation.
- [25] I mention the above because I am satisfied that the reasons why I preferred Mr. Hall as an experienced agent with no prior connection to either party to take over the listing of the Home, if necessary, do not give rise to any bona fide concerns about the fact that this agent is the one bringing forward the offer from the Prospective Purchasers. The Prospective Purchasers' agent is in the same position as any other buyer's agent of having a fiduciary duty to negotiate the best offer on behalf of their clients while being compensated, if the offer is accepted, based upon a shared proportionate percentage of any ultimate sale price. I simply do not see the basis for an ulterior motive which Lucille submits may be engaged given the agent's prior dealings with Mark and/or Pumping.
- [26] The original offer received from the Prospective Purchasers on November 4, 2025, was for \$1,411,350. This was, as noted, the first offer received since the Home was listed on or about March 28, 2025.
- [27] Mr. Chepil recommended making a counteroffer at \$1,525,000, which was Mr. Chepil's most recent recommendation for a listing price for the Home, as noted above and in the Stay Reasons.
- [28] Mark made a counteroffer of \$1,525,000 as he is permitted to do under the terms of joint conduct of sale provided for in the Consent Order even though Lucille was not in agreement on the basis that it was subject to court approval within seven days of the Prospective Purchasers' removing their subject conditions. That counteroffer was not accepted.
- [29] The Prospective Purchasers did, however, make a subsequent counteroffer of \$1,455,000 on November 2, 2025 (the "Counteroffer"). The Counteroffer was made subject to a variety of conditions for the benefit of the Prospective Purchasers, which conditions were, based upon my review, fairly standard. The Counteroffer includes a satisfactory deposit and, quite importantly, a quick possession date of December 1, 2025. I gather from submissions that

this is because the Prospective Purchasers' former home is under contract for sale and they are seeking to avoid needing to secure temporary accommodation between closing dates. I reference this because it does suggest that the Prospective Purchasers are motivated buyers.

- [30] Mr. Chepil recommended to the parties that they accept the Counteroffer, citing current market conditions and his previous input on fair market value. Mark agreed with this recommendation and Lucille did not. The Counteroffer thus remains subject to court approval within seven days of the Prospective Purchasers' removing their subject conditions. Hence the need for hearing the Sale Approval Application on an urgent basis.
- [31] On or about November 13, 2025, the Prospective Purchasers removed/waived all the conditions to their benefit enumerated in the Counteroffer. This included a financing subject condition.
- [32] As part of that process, the Prospective Purchasers' lender obtained an appraisal which confirms that the fair market value of the Home is \$1,455,000 (the "Bank Appraisal"). For the purposes of the Sale Approval Application, the Prospective Purchasers authorized the disclosure of a slightly redacted copy of the Bank Appraisal to Mr. Chepil, who shared it with Mark's counsel. Importantly, and very simplistically stated, the Bank Appraisal was commissioned for the lender's benefit to ensure that the amount of funds being loaned would be sufficiently secured by the Home. If the Bank Appraisal were to come in less than the proposed purchase price, that would raise concerns for the lender which might require the Prospective Purchasers to resort to other financing alternatives or potentially failing to remove the subject condition which was included in the Counteroffer for their sole benefit. The Bank Appraisal, however, does confirm that the Home has a fair market value of at least \$1,455,000 and, as noted, the Prospective Purchasers accordingly removed/waived the financing subject condition.
- [33] Also relied upon by Mark in support of the Sale Approval Application are comparative market analysis reports of the Prospective Purchasers' agent and Mr. Chepil. These comparative market reports also, with various adjustments for the comparables utilized, support the conclusion that the fair market value of the Home is \$1,455,000.
- [34] Again, I approach these comparative market reports with some degree of caution because they are being used to support the Prospective Purchasers' Counteroffer before the court for approval as opposed to truly independently assessing the fair market value of the Home.
- [35] However, I also have the benefit of Justice Betton's conclusion, based upon the joint appraisal obtained during the litigation, that the fair market value of the Home was \$1,500,000. There have been market changes since both the joint appraisal was prepared by Mr. Rayburn (which, as noted, predated the trial) and the trial before Mr. Justice Betton, but there can be no bona fide suggestion that the market is better now than it was on either of those dates.

- [36] As part of Lucille's materials opposing the Sale Approval Application, Lucille appends a "pre-approval" letter from a mortgage broker, Mr. Dymont. The letter is dated July 29, 2024 and expired on November 28, 2024. It is thus stale dated. However, there are two important points about Mr. Dymont's letter: first, the value of the Home is listed, based on information provided by Lucille to Mr. Dymont, at \$1,500,000; and second, the letter is premised upon Mark "gifting" Lucille \$1,000,000 in equity in the Home and Lucille being required to borrow only \$500,000. The former suggests that Lucille was prepared to accept, following receipt of the Trial Reasons, that the fair market value of the Home was \$1,500,000. The simple math for the latter scenario simply does not work if one reviews the Trial Reasons. Justice Betton's decision, as later incorporated into the Final Order, does contemplate Lucille receiving \$1,000,000 equity in the Home.
- [37] In the circumstances, I am satisfied that the fair market value of the Home is approximately \$1,500,000. After having been exposed on the market for over nine months, with two significant price reductions carefully authorized by this Court, there has been only one offer received. That offer, while slightly below \$1,500,000, is some 97% of that value.
- [38] I am further satisfied that there is no reasonable prospect of Lucille being able to buy out Mark's interest in the Home. That is a wish but not a practical reality. In so concluding, I understand and am sympathetic to Lucille's submissions about what the approval of the sale of the Home to the Prospective Purchasers means for her and the parties' children's future. However, this situation is analogous to a foreclosure at this point. I require current reliable evidence. What I have is a stale-dated pre-approval which is based on assumptions not consistent with actual financial realities.
- [39] Accordingly, subject to my below orders on clearing title for the purposes of sale and signing of documents, I grant paragraph 1 of the Sale Approval Application wherein the Counteroffer is approved by the Court. I am adjourning paragraphs 2 and 3 of the Sale Approval Application as I am not satisfied there is a basis to conclude that Lucille will not sign the documents to allow the sale to proceed. Being opposed to the sale is not the same as being not cooperative. Should issues arise, the matter can come back on before me but I hope that shall not be necessary.

Clearing Title to the Home

- [40] Even after accounting for payment of real estate commissions and reasonable conveyancing costs, the Counteroffer provides sufficient proceeds to pay off all secured debts registered against title to the Home that were contemplated by Justice Betton at the time of the Trial Reasons.
- [41] However, since the release of the Trial Reasons, there have been material developments.
- [42] Firstly, Lucille's former counsel, FH&P Lawyers LLP ("FH&P") filed a petition in this Court on December 19, 2024 (the "Petition") wherein FH&P has asserted that the law firm holds a charge pursuant to s. 79(1) of the Legal Profession Act, S.B.C. 1998, c. 9 [LPA] over Lucille's

interest in the Home and a corollary order that legal fees in the sum of \$379,727.82 plus 18% interest be paid out of the sale proceeds pursuant to s. 79(3) of the LPA. By virtue of the nature of the claim advanced in the Petition, FH&P was also able to register a certificate of pending litigation against the Home which remains on title as of the present date ("FH&P's CPL").

- [43] Lucille, to the knowledge of Mark's counsel, is actively dealing with the Petition. What amounts Lucille may owe to FH&P and FH&P's right to an in rem claim against the Home as alleged in the Petition (which grounds the basis for FH&P's CPL) remain very live issues (issues which will be resolved by another member of this Court than myself).
- [44] Notwithstanding the foregoing, Mark's counsel, rather perplexingly, brought the Sale Approval Application without giving direct notice to FH&P or, as I understood from submissions, even indirectly to their outside counsel who is apparently acting for the firm in respect of the Petition.
- [45] The only way to address this, I conclude, is to place the obligation upon Mark to secure the release of FH&P's CPL by either agreement, approved in writing by Lucille, or, if necessary, by court order prior to the December 1, 2025 closing date contemplated in the Counteroffer.
- [46] In this regard, while I have ultimately rejected Lucille's arguments opposing the approval the sale of the Home to the Prospective Purchasers, I am not prepared to prejudice her position in the Petition by obligating her to negotiate with FH&P to secure the release of FH&P's CPL when Mark could have potentially avoided or at least mitigated this difficulty by giving FH&P notice of the Sale Approval Application. Lucille shall, however, not unreasonably withhold her consent to any agreement which Mark is able to negotiate to secure the release of FH&P's CPL in an effort to frustrate the sale of the Home as now approved by this Court.
- [47] The other material development is that, on August 29, 2025, I ordered that Lucille was obligated to pay the "Other Respondents" in this action costs summarily determined in the amount of \$92,414.79: see 2025 BCSC 1691. Those costs have been reduced to a certificate of fees which is registered against title to the Home (the "Certificate") and are continuing to accrue post-judgment interest.
- [48] Unlike the Petition, which remains a complicated and partially disputed claim as between Lucille and FH&P, the Other Respondents are entitled to be paid their costs by Lucille pursuant to the Certificate. There is also, *prima facie*, funds to pay out the costs owing to the Other Respondents pursuant to the Certificate after payment of the primary secured debts but for the FH&P CPL which was registered on title to the Home well before the Certificate. However, the practical reality is that the "Other Respondents" are Mark's father and companies controlled by Mark's father. Lucille is not in an equal bargaining position to be negotiating with the Other Respondents to ensure that there is clear title to convey to the Prospective Purchasers before the December 1, 2025 closing date.

- [49] Accordingly, I am also going to place the obligation upon Mark to secure the release of the Certificate by either agreement, approved in writing by Lucille, or, if necessary, by court order prior to the closing date contemplated in the Counteroffer. Lucille shall, however, not unreasonably withhold her consent to any agreement which Mark's counsel is able to negotiate in an effort to frustrate the sale of the Home as now approved by this Court.
- [50] Subject to my below caveats, any application(s) required by virtue of my orders set forth in these reasons may be brought on two business days' notice to all parties and/or interested parties identified herein.
- [51] For clarity, any proposed hearing date of any application(s) required pursuant to my above orders regarding the approval of the sale of the Home to the Prospective Purchasers shall be first canvassed through Supreme Court Scheduling in accordance with the standard protocols to determine my potential availability. However, considering the limited number of sitting days between these reasons for judgment and December 1, 2025, combined with the fact that I am now currently presiding over another lengthy family law trial, I reserve the right, if necessary, to direct that such application(s) be heard by another presider of this Court.

Bordignon Holdings Application

- [52] Lucille filed the Bordignon Holdings Application, as noted, on November 12, 2025. This was one business day prior to the hearing of the Sale Approval Application (which by virtue of the Consent Order was permitted to proceed on an abridged notice period).
- [53] I granted permission for Lucille to put the Bordignon Holdings Application before the Court because, to the extent that the application was material to Lucille's opposition to the Sale Approval Application, denying permission to Lucille would have rendered that portion of the Bordignon Holdings Application moot if I were to approve the sale to the Proposed Purchasers.
- [54] Ultimately, I have concluded that Lucille's desire to purchase Mark's interest in the Home is financially unrealistic and not supported by any reliable evidence. Accordingly, paragraph 3 and 4 of the Bordignon Holdings Application are dismissed.
- [55] Regarding the orders sought in paragraphs 1 and 2 of the Bordignon Holdings Application, this is similar, albeit not identical relief, which I quite recently addressed in my reasons for judgment delivered on June 17, 2025 and indexed at 2025 BCSC 1113, wherein I stated as follows starting at paragraph 61:
- [61] Paragraph 10(f) of the April 2025 Application seeks an order for financial statements for Bordignon Family Holdings Ltd. ("Bordignon Holdings") from 2019 to present.
- [62] To place this request into context, I refer to para. 299 of the Trial Reasons where in Justice Betton stated:

According to the testimony of GB [Mark's father], Bordignon Family Holdings Ltd. is a holding company that GB puts money into from 461 [461334 B.C. Ltd.] when he wants to give his children money. MB confirmed in cross-examination that he holds 1,200 voting shares in the company. There is nothing to contradict this. In her argument, the claimant complains about the lack of disclosure regarding this entity but does not develop an argument as to what if anything should result. On the limited evidence, the shares are family property and one half of MB's shares are to be held in trust for the claimant.

- [63] On December 17, 2024, Lucille filed an application seeking various disclosure, including the financial statements for Bordignon Holdings for the last six years.
- [64] That application was heard by Justice G.P. Weatherill with my consent due to my limited availability. On January 13, 2025, Justice G.P. Weatherill dismissed Lucille's application in its entirety and remitted the issue of costs to me.
- [65] Lucille's evidentiary basis for seeking the financial statements for Bordignon Holdings in the April 2025 Application is essentially the same as in her December 17, 2024 application. The Other Respondents are thus correct that the document demand as against them is *res judicata* and is an abuse of process.
- [66] With respect to the request that Mark produce these financial statements, I am not satisfied that it is appropriate to simply dismiss the relief sought on the basis of *res judicata*/abuse of process. The Final Order puts Mark in the position of a trustee of one-half of the shares of Bordignon Holdings for the benefit of Lucille. That is fundamentally different than the term of the Final Order dismissing all the claims against the Other Respondents: see para. 351(c)(3)(1) of the Trial Reasons. The term of the Final Order requiring Mark to hold one-half of his shares in trust does not, however, go any further. Said another way, there are no next steps contemplated in this action regarding the shares in Bordignon Holdings.
- [67] Given same, I am not satisfied that the financial statements for Bordignon Holdings are producible under Rule 9-1, even on a very broad interpretation of Rule 9-1(8) as a request under that provision of the Rules must still relate to a matter "in question" in a family law case. I thus dismiss the relief sought by Lucille on this basis.
- [68] My conclusion in this regard does not preclude Lucille from pursuing access to financial statements from Bordignon Holdings entirely. Mark is a shareholder of Bordignon Holdings. Bordignon Holdings is a company incorporated in British Columbia and is governed by the Business Corporations Act, S.B.C. 2002, c. 57 [BCA]. There is an obligation under the BCA to maintain certain records: see s. 42. Those records include financial statements: see s. 42(1)(p). There is a right to inspect these records by a shareholder "if and to the extent permitted by the articles" of the company: see s. 46(1)(b). I will not go further down this path of analysis for the very reason indicated above - there is no existing matter "in question" before me regarding Bordignon Holdings in this action. But the trustee/beneficiary relationship between Mark and Lucille created by the Final Order endures.

- [56] Given the time sensitivity of the Sale Approval Application and the need for the expedited release of my reasons, I am, subject to my below caveat, simply going to adjourn generally paragraphs 1 and 2 of the Bordignon Holdings Application. They can be reset before me at a mutually agreed upon time coordinated through Supreme Court Scheduling. Before so doing, I encourage Lucille and the new counsel whom I understand she has consulted to carefully review my above reasons for judgment. Further, the orders I made on June 17, 2025, in this regard were not appealed by Lucille and so certain of the relief sought in the Bordignon Holdings Application as against Mark is now *res judicata*.
- [57] The one exception to the adjournment generally of Lucille's application is that included in paragraph 1 of the Bordignon Holdings Application is an order that "if there is a dispute with respect to the adjustments to the purchase price contemplated by paragraph 332(f) of the reasons for judgment (the "Reasons") the parties shall have leave to apply to this Court for an adjudication of the dispute". I believe this may be a typo as there is no paragraph 332(f) in the Trial Reasons. However, if there is a dispute between the parties as to the adjustments associated with the sale of the Home to the Prospective Purchasers which I have now approved, Lucille has liberty to bring that issue back on before me (or another presider if I so direct) on two business days' notice to all parties and/or interested parties identified herein just as I provided that same opportunity to Mark above.

Costs

- [58] Rule 16-1 and Appendix B of the Rules govern costs in family law cases. The general rule is that costs should follow the event; that is, they are awarded to the successful party unless the court otherwise orders: see R. 16-1(7).
- [59] In the event a party is not successful on all issues, the court may still award costs on a party's substantial success: see *Marquez v. Zapiola*, 2014 BCCA 35. This analysis is done while considering substantial success on the majority of issues of substance and not the number of issues: see *Rattenbury v. Rattenbury*, 2001 BCSC 593. Substantive success is an objective measure of the parties' relative success or failure on the issues: see, again, *Marquez*.
- [60] Within that framework, I have concluded that as between Lucille and Mark, Mark was substantially successful. Mark succeeded in obtaining court approval of the sale of the Home to the Prospective Purchasers and defending against Lucille's efforts to purchase his interest in the Home. The remainder of the relief sought in the Bordignon Holdings Application will have to be addressed by me in due course, with more fulsome submissions, if Lucille decides to proceed with the application.
- [61] In the circumstances and having regard to the relatively abbreviated length of the oral hearing on November 14, 2025, I am going to summarily assess Mark's costs at \$1,000.00 inclusive of disbursements.

"Hardwick J."

Appendix "A"

PART 1: ORDER(S) SOUGHT

1. An order that the Respondent Mark Bordignon produce and serve full and complete financial statements for Bordignon Family Holdings Ltd., including but not limited to balance sheets, income statements, and statements of retained earnings, for the past 5 fiscal years. Since separation in July 2020.

In addition the following orders:

- The respondent shall direct the accountants for Bordignon Family Holdings to calculate the basis of the respondent's shares in Bordignon Family Holdings and the basis of the two shareholders. That calculation should be delivered by the respondent to the claimant on or before December 2025 together with all documents relied on to support the calculation;
- the respondent shall deliver the consolidated balance sheets for Bordignon Family Holdings from July 2020 to Current to the claimant as soon as they are available;
- the respondent shall deliver the general ledger for Bordignon Family Holdings as of July 2020 to the claimant forthwith and shall deliver the general ledger for Bordignon Family Holdings as soon as it is available;
- the respondent shall provide to the claimant full particulars of any or all distributions made by Bordignon Family Holdings to the respondent.

-The respondent shall provide to the claimant all documentation in connection with any payments made "to pay off and retire prior to Closing or distribute to the Seller at Closing any Indebtedness of the Company" Of all family members.

- the respondent shall forthwith pay to the claimant one-half of all distributions and/or payments on the Notes owing by Bordignon Family Holdings to the respondent;
- the respondent shall provide to the claimant the calculation of Closing Net Working Capital, Target New Working Capital and Working Capital Shortfall to the claimant, as applicable when those calculations are made;
- the respondent shall provide to the claimant all documentation relating to the Purchasing Entity's determination
- if there is a dispute with respect to the adjustments to the purchase price contemplated by paragraph 332 (f) of the reasons for judgment (the "Reasons") the parties shall have leave to apply to this Court for an adjudication of the dispute;

installments which are to commence January 1, 2019 (the "Payment Installments");

- the claimant shall receive interest on the Payment Installments at 5% per annum, payable quarterly;

2. In the event that such financial statements do not presently exist, that the Respondent Mark Bordignon cause Bordignon Family Holdings Ltd. to have financial statements prepared by a qualified accountant, using the company's financial records, for the past 5 fiscal years, since separation in July 2020. Including any ancillary authorizations or directions required to release funds, within 14 days of this order.
3. That I Lucille Bordignon be permitted to purchase the family residence located at 1202 Trevor Drive (the "Property") For funds owed to me by Mark Bordignon from the judgement pronounced July 10, 2024. That upon payment of the said purchase price, the Property be transferred solely into the name of Lucille Bordignon, free and clear of any right, title, or interest of Mark Bordignon. That the purchase funds consist of: a. monies received by Mark Bordignon pursuant to the trial order dated July 10th, 2020 and. monies or distributions from Bordignon Family Holdings Ltd., as required to complete the purchase.
4. That Mark Bordignon do all acts and execute all documents necessary to effect the transfer of the Property to Lucille Bordignon. That in the event Mark Bordignon fails or refuses to execute such documents, the Registrar of the Supreme Court of British Columbia be authorized to execute the transfer and any related documents on his behalf. That the Court find that Mark Bordignon has devalued the Property and that the transfer is necessary to preserve the equity in the family home.
5. Such further or other orders as this Honourable Court may deem just.

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Prepared on 28 October 2026 · Esheria