

CANADA / JUDGMENT

Forrest v. Forrest

2025 BCSC 1484

COURT

Supreme Court of British Columbia

DECIDED

9 July 2025

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2025 BCSC 1484 Forrest v. Forrest

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Forrest v. Forrest,

2025 BCSC 1484

Date: 20250709

Docket: E70790

Registry: New Westminster

Between:

Anne-Marie Forrest

Claimant

And

Blake Alexander Forrest

Respondent

Before: The Honourable Justice Thomas

Oral Reasons for Judgment

Counsel for the Claimant:

C. Anninos

Counsel for the Respondent:

S. Jodway

Place and Dates of Trial:

Abbotsford, B.C.

June 23-26, 2025

Place and Date of Judgment:

Abbotsford, B.C.

July 9, 2025

[1] THE COURT: This is a family law matter in which the claimant and respondent seek a divorce and division of assets. In addition, the respondent seeks non-compensatory spousal support. Counsel have provided me with some helpful submissions on the law. I have drafted my reasons in a manner that I hope will be comprehensible to the parties and have therefore summarized the legal principles that I have applied without direct reference to the authorities provided by counsel. I will provide the clerk with notes of the orders that I have made at the end of my reasons. These orders contain relevant valuations, apportionments, and results of my reasons. I order that the notes can be emailed to the parties upon request.

I. Divorce

- [2] The claimant was born on November 24, 1964, and the respondent on July 10, 1964. They are both 61 years old. They began a marriage-like relationship in July of 2013 and were married on December 22, 2016. It was a second marriage for both. They have adult children from past relationships, but no children together.
- [3] There has been a recent history of unruly behaviour between them. The respondent obtained a restraining order against the claimant in October 2023. The parties had a brief separation and reconciled in January 2024 and resulting in the lifting of the restraining order.
- [4] The claimant obtained a restraining order against the respondent in June of 2024. The respondent moved out of the premises and currently resides in a camper. The restraining order expires later this year. I am satisfied that there is no prospect of reconciliation and that a divorce is appropriate.

II. Conduct Orders

- [5] The parties have demonstrated an inability to cooperate. Therefore, to the extent possible, I will make final orders that minimize the amount of cooperation and communication between the parties. I see no basis for further conduct or restraining orders. My hope is to resolve the ongoing difficulties between the parties with this judgment.

III. Name Change

- [6] The claimant wishes to change her name back to her previous surname, Anne-Marie Wilkinson. I make this order under the Name Act, RSBC 1996, c. 328.

IV. Pension

- [7] The parties agree that both of the claimant's pensions are to be divided pursuant to Part 6 of the Family Law Act, SBC 2011, c. 25 [FLA], from July 2013 to July 2024. I make this order.

V. Credit Card Debts

- [8] The claimant's Visa and Mastercard had a balance of approximately \$16,000 and \$8,000 owing at the time of separation and at the time of trial. This totals to \$24,000.
- [9] The respondent's Visa and Mastercard had balances of \$4,000 and \$5,200 at the time of separation and \$11,000 and \$20,500 at the time of trial. Additionally, the respondent had a line of credit with a balance of \$8,400 at separation and \$14,800 at trial. This totals to \$17,600 in debt at separation and \$46,300 at trial.
- [10] The respondent's debt increased by \$20,700 from the time of separation to the trial. However, part of this increase was due to a loan to his son, which, in my opinion, cannot be considered part of a joint debt after separation. The respondent believed that this loan was about \$5,000, while his son thought the loan was closer to \$20,000, which he was gradually paying off each month. The respondent did not identify where this loan appeared in his financial records or provide any further details. He was unable to correlate any purchases he made with his financial records with respect to joint expenses incurred since the separation. Nonetheless, it is clear that he had significant expenses due to the fact that he was barred from accessing the family home which contained his belongings. He was living in a camper that required repairs.
- [11] The claimant says she is not responsible for any of the respondent's post-separation debt. She continued to pay for expenses associated with the house, such as mortgage, hydro, taxes, et cetera, and she says this should fully account for any responsibility she had. However, the claimant's analysis does not consider the fact that the respondent had to cover living expenses due to their separation and his inability to access his belongings at the house. He has also had to pay for some repairs and maintenance of the camper and his vehicle to make them habitable. Although the claimant paid expenses for the house, she also lived in the house and did not have to pay rent or obtain alternative accommodations. There is also a significant difference in incomes earned by both parties that I will deal with later in my reasons.
- [12] In my view, it is impossible to determine the respondent's reasonable expenses with precision. Considering the facts and position of the parties, I assess that an additional \$10,000 of the respondent's debt increase after separation before the trial is a reasonable

amount to account for expenses associated with the separation and setting up and maintaining a new residence. As such, these expenses should be treated as joint expenses. Therefore, the claimant's debt of \$24,000 and the respondent's debt of \$27,600 will be treated as joint expenses, which total \$51,600. The respondent's remaining credit debt of \$18,700 is his own debt and not a family or joint debt.

VI. Chattels

[13] The respondent proposes the following division of property:

- a. Respondent: Denali truck, estimated value of \$60,000; Harley Davidson, estimated value of \$5,000; Kubota tractor and implements, estimated value of \$35,000.
- b. Claimant: Kona vehicle, estimated value of \$40,000; Harley Davidson, estimated value of \$10,000; Yamaha ATV, estimated value of \$10,000; jewellery, estimated value of \$20,000; Christmas village, estimated value of \$7,500; and a camper with an estimated value of \$40,000.

The respondent says this would provide him with approximately \$100,000 in value of chattels and the respondent with \$127,000.

[14] The claimant proposes the following division of property:

- a. Respondent: the Denali truck with an estimated value of \$80,000; his Harley Davidson with an estimated value of \$9,000; and the camper with an estimated value of \$50,000.
- b. Claimant: the Kona vehicle with an estimated value of \$40,000 and her Harley Davidson with an estimated value of \$10,000. The breakdown of chattels here would be \$139,000 to the respondent and \$50,000 to the claimant.

[15] The difference in the value of the Denali truck is largely based on the fact that the respondent says that the truck caught on fire and suffered damage, decreasing its value. There is no estimate or other evidence supporting the increased appreciation outside of this testimony. I would value the Denali truck at \$70,000.

[16] The respondent is in possession of the camper and is living in it. If he wishes to sell it, he may do so. There is no appraisal evidence, so I will simply split the difference in the valuations and value the camper at \$45,000.

[17] The claimant values the Kubota tractor and implements at \$40,000. The respondent wants the tractor and implements and values them at \$35,000. In my view, the tractor and implements should be assessed at a value of \$40,000 and possession should be provided to the respondent.

- [18] The claimant says there is insufficient evidence to value and apportion the jewellery and Christmas village. I disagree. There is viva voce testimony on these items including estimated purchase values. The claimant has indicated that she wants these items and I value them collectively at \$25,000, accounting for reasonable depreciation.
- [19] The claimant values the ATV at near new condition. It was purchased for \$17,000. The respondent values it at \$10,000. I understand the ATV is at the former matrimonial home and I give possession of the ATV to the claimant and value it at \$13,500.
- [20] This results in the following apportionment of joint assets:
- Claimant: Kona vehicle estimated at \$40,000; Harley Davidson, estimated value at \$10,000; the Yamaha ATV, estimated value \$13,500; jewellery and Christmas village, estimated value, \$25,000. This amounts to a total value of \$88,500.
 - Respondent: the Denali truck with an estimated value of \$70,000; the Harley Davidson with an estimated value of \$9,000; a camper with an estimated value of \$45,000; the Kubota tractor and implements with an estimated value of \$40,000. This amounts to a total value of \$164,000.

VII. Claims for Excluded Property

- [21] The claimant received settlement proceeds from her previous marriage after she began her marriage-like relationship with the respondent. The respondent received an inheritance and settlement for an assault that permanently disabled him in 2015. These funds were commingled in common accounts and used for common expenses. In my view, neither party has established an ability to isolate an ongoing interest in the proceeds of these funds that would extend past the marriage. The monies appear to have been deposited into a joint account and used on joint credit cards. Neither party was able to provide disclosure of financial records. In the absence of providing an accounting of these funds to direct tangible property, these assets cannot be treated as excluded property.
- [22] Although \$100,000 of the respondent's settlement was used to purchase a truck, in my view, this is not excluded property. The respondent received a lump-sum settlement of \$286,000 after taxes and fees. There is no attempt to break down what was for loss of income and what was for non-pecuniary damages. In my view, in the absence of a breakdown of the heads of damages, I do not view it as excluded property.
- [23] In 2015, the claimant and respondent moved into the claimant's mother's house. The claimant was put on title as a joint owner in the summer of 2015. I am satisfied that this was a gift from the claimant's mother to the claimant as an advance on her inheritance. No evidence was submitted with respect to the value of this property in 2015. As soon as her mother made the claimant a joint owner of the property and added her to the title, in my view, the claimant became legally entitled to a 50% interest in the property. In joint tenancy, each co-owner owns an equal and undivided interest. Since there are two people listed on

the title, each is entitled to an equal share of the property.

- [24] The respondent and claimant worked for approximately a year fixing up the house for the claimant's mother. The house was sold in June of 2016 for \$818,950. In my view, considering the increase in value provided by the renovations on the property, which include replacing fixtures, painting, replacing cabinets, etc., the house increased in value by \$100,000 between the time that the claimant became a joint owner and the property was sold. Since the claimant was a 50% owner of the property, she received an increase in value of \$50,000 from the time she became an owner and the property was sold. Therefore, \$50,000 of the proceeds of the sale are joint property, and the claimant's proceeds of \$359,425 are excluded property if they can be traced through to the end of the marriage.
- [25] The claimant's mother received \$409,425 from the sale of her home. The claimant's mother kept \$50,000 and then gifted the claimant her remaining \$359,425 as completion of her inheritance, so that the claimant could purchase a house mortgage-free. This \$359,425, in my view, is also excluded property to the claimant if it can be traced through to the end of the marriage.
- [26] The claimant purchased the house in Mission for \$701,000. This purchase was made from the \$50,000 in joint funds with the rest of the purchase price coming from the claimant's excluded funds, which totalled \$651,000. I have deducted the expenses and other unrecorded purchases from the excluded funds because the accounting does not allow one to clearly isolate the excluded funds from the joint funds.
- [27] In the fall of 2016, the claimant took out a \$100,000 line of credit mortgage. In 2019, the respondent was put on title and a further mortgage totalling \$320,000 was taken under both the claimant's and respondent's names. The proceeds of this mortgage were used to pay off a line of credit and purchase a number of vehicles, equipment, and a camper.
- [28] In my view, s. 81.1(1) of the FLA rebuts the presumption of advancement so that the addition of the respondent to the title of property does not create a presumption of advancement which would nullify the claimant's right to sole entitlement to the funds she invested in the family home. In this way, this matter is dealt with differently than the gift between the claimant and her mother. The parties refinanced the property in 2020 and obtained a mortgage of \$360,000 to pay off the existing mortgage and make additional purchases. No accounting was provided to determine whether mortgage withdrawals were from the joint or excluded parts of the value of the home. Therefore, I believe it is appropriate to treat the withdrawals as coming from the excluded part of the home's value.

- [29] The home was purchased for \$818,950 and is currently valued at \$1,010,000, establishing an increase of \$191,050. The current value of the mortgage is \$325,000. Therefore, the equity in the house is \$685,000. The joint claim to equity in the house is calculated by the increase in the value of the house of \$191,050 plus the joint funds used in the purchase of the house of \$50,000 for a total of \$241,050. This amount would typically be shared equally between the claimant and the respondent.
- [30] The claim to equity in the house that the claimant is solely entitled to as excluded property is the total equity in the house of \$685,000 minus the joint claim to equity of \$241,050, for a total of \$443,950. In the absence of reapportionment, the claimant would receive a total of her excluded entitlement to the house of \$443,950 plus half of her joint entitlement of \$120,525, which is 50%, for a total of \$564,475. That amounts to 83% of the equity in the home which consists of both excluded and joint property. The respondent would receive \$120,525, which is 17% of the equity in the home, which consists of both excluded and joint property. I will consider whether a reapportionment of the joint equity in the home is appropriate later in my reasons.

VIII. Income of the Parties

- [31] The claimant worked as an emergency medical attendant. Unfortunately, she was injured, but retrained and secured employment as a 911 operator. It is a stressful job, and she takes regular time off for stress leave, which is covered by Workers' Compensation, apparently, each year. She earned approximately \$100,000 in 2023 and 2024 in her new job as a 911 operator. She is on track to earn more in 2025, but has not taken any stress leave due to calls so far this year.
- [32] In my view, \$100,000 is an appropriate estimate of the claimant's future income. Although she earned less before 2023, she was working as an emergency medical attendant and was injured. So those years are not suitable for predicting future earnings as a 911 operator. While she is expected to earn over \$100,000 this year, she has a history of not being able to work an entire year without having to go on disability. In addition, the claimant receives \$600 per month in rent from one of her adult sons and \$400 per month of spousal support.
- [33] The respondent has worked as a woodworker. He has been on and off disability. He earned around \$32,000 in 2013 and 2014 based on the receipts from the Hambletons at Richmond Stables. It is unknown how much he earned in 2015, but he was injured in the summer of that year. After the assault, he went on Canadian Pension Plan disability ("CPP") and received a large lump-sum settlement from the assailants and currently receives a Victims of Crime Pension. The respondent's current income is \$13,509 from CPP disability and \$19,296 from Victims of Crime Pension, which is subject to an automatic gross up as this income is not taxable. This results in a gross income of more than \$32,800. I note this income is greater than what he earned prior to being assaulted in 2015, based on the financial records provided.

- [34] The claimant says that the respondent is not disabled from employment and is capable of working full-time at \$50,000 per year. I note that there is no indication that the respondent has ever earned that much in a year, let alone after a period of unemployment in his 60s. The respondent does engage in some work. He relies on others and his tractors to do heavier work and is unable to work for sustained periods or more than a few days in a row. He has been forthright with the Victims of Crime counsellor about what he does, which he says is good for his mental health. He agreed that he earned perhaps \$5,000 in one year for his work. He typically charges for materials, gas, and to compensate people who help him. He does not declare the \$5,000 as taxable income given the small amount.
- [35] If the respondent were to return to even part-time work, he would lose his CPP disability and Victims of Crime Pension. In these circumstances, I accept that the respondent is disabled from working more than \$5,000 per year tax-free. Therefore, his effective income is in the range of \$40,000 per year, given that \$24,296 from the Victims of Crime Pension is also tax-free. I note that this is more income than the respondent could earn if he were not fully disabled, given my findings with respect to his historical earning capacity.
- [36] To be clear, I have found that the respondent's income for spousal support is the total of his CPP, Victim of Crime Pension which is subject to a gross up for tax-free status, and \$5,000 of additional earning capacity which would also be subject to gross up for tax-free status as it has not been claimed for income tax purposes and probably will not be done so in the future.

IX. Claim for Spousal Support

- [37] The respondent presents a non-compensatory claim for spousal support. Although he was injured and became disabled during the marriage, I have determined that this disability has not affected his ability to earn income, as he now earns more on disability with his residual earning capacity than he did prior to his injuries. This does not mean that he does not have a claim for non-compensatory spousal support. Throughout the marriage, the claimant earned more than the respondent and supported his lifestyle financially. The respondent did more around the home and appears to have contributed in other non-financial ways to the relationship. In my view, given the stage of life that the parties entered into a marriage-like relationship, their established families, career paths, and earning potentials, and the length of the marriage-like relationship, the respondent has a weak claim for non-compensatory spousal support.
- [38] The claimant says that since she paid for the mortgage after the respondent had been barred from the matrimonial home, she should not have to pay retroactive spousal support. I reject this position. The claimant chose to live in the house and paid mortgage payments of \$2,300 per month in lieu of rent as an alternative residence and also received rent from her son. In these circumstances, in my view, this does not constitute a valid reason to avoid paying retroactive spousal support.

[39] Given these factors, I assess the respondent's claim for spousal support at the lower end of the Spousal Support Advisory Guidelines [SSAG] for five-and-a-half years from the date of separation. This includes one year of retroactive support. I estimate the claimant's income at \$112,000. This would be adjusted for spousal support income she may receive from her previous partner and any rental income she receives from people residing at the house. I assess the respondent's income at \$5,000 to be treated as a non-taxable benefit along with his CPP disability pension and his Victim of Crime Pension, both to be treated as non-taxable.

X. Reapportionment

- [40] The respondent made several large lump-sum contributions during the term of the marriage, including a \$286,000 lump sum settlement, part of which would likely have been excluded property had the settlement been particularized for the non-pecuniary amount and traced to the purchase of the truck. This was not done. Therefore, it is joint property.
- [41] Similar issues arise with respect to the respondent's inheritance. In my view, the fairest assessment of the value of this inheritance comes from the legal documents which indicate that the estate, which was to be split between the respondent and his brother, was worth a total of \$224,000. Therefore, the total value of the respondent's inheritance was \$112,000.
- [42] The claimant received a divorce settlement of around \$250,000 in 2015, which was gone by 2019. There were no real items that could be identified, nor could the funds be traced.
- [43] The main source of dispute over the excluded property was the claimant's inheritance from her mother and the value of the family home. In the absence of reapportionment, the claimant would receive a total of her excluded entitlement to the house's value of \$443,950 plus half of her joint entitlement of \$120,525, 50%, for a total of \$564,475 and the respondent would receive \$120,525. However, with respect to the other assets, the claimant is receiving \$88,500, which is 35%, while the respondent receives \$75,500 more at \$164,000, which is 65%. In addition, the parties are jointly responsible for \$51,600 of credit debt which amounts to \$25,800 of debt each.
- [44] Given the minimal entitlement to spousal support, the income disparity and the challenges both parties will encounter in adjusting to their financial circumstances, in my view, it would be improper for the respondent to receive only 50% of the joint equity in the matrimonial home. Therefore, I am reallocating this division of assets so the respondent receives \$180,525 or 75% of the joint equity while the claimant receives \$60,525 or 25%.
- [45] So, in conclusion, I am going to make the following orders, and this is what I will provide to the clerk so it can be provided in draft form to the parties:
- i. The parties are divorced pursuant to the Divorce Act, RSC 1985, c 3 (2nd Supp).
 - ii. The claimant's name, Anne-Marie Forrest, will be changed to Anne-Marie Wilkinson.

iii. The claimant's pensions are to be divided pursuant to Part 6 of the Family Law Act, SBC 2011, c. 25 from July 2013 to June 16, 2024.

iv. Joint property will be divided as follows, with the following valuations:

a. To the claimant, with estimated value:

i. Kona vehicle

\$40,000

ii. Harley Davidson

\$10,000

iii. Yamaha ATV

\$13,500

iv. Jewellery and Christmas village

\$25,000

Total estimated value:

\$88,500

b. To the respondent, with estimated value:

i. Denali truck

\$70,000

ii. Harley Davidson

\$9,000

iii. Camper

\$45,000

iv. Kubota tractor and implements

\$40,000

Total estimated value:

\$164,000

v. Each party will arrange a mutually convenient time, one meeting, through their legal counsel to exchange property that I have just mentioned in the other party's possession within 30 days of the date of this order.

vi. The house is valued at \$1,010,000.

- vii. The respondent is entitled to \$180,525 joint equity in the house. The respondent's share of joint debt totalling \$25,800 will be deducted from his entitlement to joint equity in the house, leaving him with an entitlement of \$154,725 equity in the house. The balance of the mortgage will be applied to the value of the house.
- viii. The respondent is entitled to five-and-a-half years of spousal support commencing on July 1, 2024. Calculation of this support will be based on an income of \$112,000 attributed to the claimant and \$13,509 from CPP disability, \$19,296 non-taxable to be grossed up from Victims of Crime Pension, and \$5,000 of attributed income, non-taxable, to be grossed up from attributed income.
- ix. The respondent's entitlement to retroactive spousal support will be applied to the value of the house, leaving him with a total net entitlement of \$154,725 plus spousal support owed from July 1, 2024, to July 1, 2025, to the equity in the house.
- x. The claimant has the option of providing a lump-sum payment for future spousal support to the respondent consistent with the midpoint of after-cost and benefit by applying the value of the respondent's entitlement to ongoing spousal support to the value of the house and including it in his total net entitlement to equity in the house.
- xi. The claimant will purchase the respondent's net entitlement to equity in the house by one of the following options:
- c. the claimant will obtain financing sufficient to clear the existing mortgage and the respondent's total net equity in the house as calculated in these orders and pay the respondent his total net equity forthwith after refinancing; or
 - d. the house will be sold and the claimant will pay the respondent his net equity in the house forthwith after the sale.
 - i. The claimant will have sole control over the sale of the house should the house be put up for sale pursuant to 11(b) of this order under the following conditions:
 - e. the house will be listed within 60 days from the date of this order by a realtor of the claimant's choice;
 - f. the respondent will be provided a copy of the advice provided to the claimant with respect to the listing price and offers to purchase received by the realtor;
 - g. if the house is not sold within 120 days of the date of this order, either party may apply to the court for directions with respect to the sale of the house or other relief as deemed necessary with respect to the sale or funds subject to be paid pursuant to the sale.
 - i. The respondent shall transfer his interest in the house to the claimant concomitant with the refinance or sale as the case may be.

ii. In my view, there has been divided success between the parties. As such, each party would be responsible for their own costs unless there are issues that I am not aware of. The parties may apply to appear before me within 30 days of the date of judgment to schedule a time to make submissions on costs if necessary.

iii. I will provide my notes containing these orders to the clerk and the parties may request of copy of these notes by emailing and requesting them through the registry.

[46] Okay, those are my reasons and orders. Is there anything that needs to be addressed at this time?

[47] CNSL S. JODWAY: Yes, Mr. Justice. My client's motorcycle was excluded property, I think that was quite clear in the trial, and the Harley Davidson was purchased before the relationship. So I don't know why it's attributed to him as a chattel at this point.

[48] THE COURT: I can hear from your friend on that. I thought that there was evidence of some ongoing payments that were being made on the bike during the time of marriage, but I could be wrong. So let me hear from your friend about that.

[49] CNSL C. ANNINOS: That was my understanding, as well, Justice, and there was no evidence as to value at the commencement of the relationship and there was estimates given, I think, by both parties as to the current value, my friend had the onus of proving excluded property and he did not meet the burden.

[50] THE COURT: Mr. Jodway, given the position of your friend and what I have said in my reasons, his motorcycle is family property, if you believe that I am in error in so finding you are free to appeal and have the matter dealt with by the court of appeal.

[51] CNSL S. JODWAY: I understand and it's not that big of a value, but there was evidence of the son as well as my client saying he purchased it -- there were no ongoing payments. He purchased it back in, I think, 2010, well before the relationship started.

[52] THE COURT: I have given my reasons. If I made an error, you have your remedy, but given the position of your friend and my recollection of the evidence, I am not going to change my findings or amend the order.

[53] CNSL S. JODWAY: I understand and we'll -- we do have without prejudice offers that I would like to bring before Mr. Justice at a hearing for costs. So we will set that down.

[54] THE COURT: Okay. Yes.

[55] CNSL S. JODWAY: Okay.

[56] THE COURT: Please make an application to appear before me so that we can address that issue.

- [57] THE COURT: I would like counsel to come to an agreement as to what the proper date for the pension is and, if there is a disagreement over it, they can then bring that up when they are making submissions about costs.
- [58] CNSL C. ANNINOS: Thank you.
- [59] CNSL S. JODWAY: Thank you, Mr. Justice. Thank you for your time.
- [60] THE COURT: Well, thank you both and we are adjourned. I will send this copy of the orders to the clerk so you can request them if you want them.
- [61] CNSL S. JODWAY: And, Justice, just to confirm, Mr. Anninos will be drafting the orders?
- [62] THE COURT: Yes.
- "Thomas J."

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