

CANADA / JUDGMENT

Hill v. Dhanda

2025 BCSC 333

COURT

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2025 BCSC 333 Hill v. Dhanda

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Hill v. Dhanda,

2025 BCSC 333

Date: 20250228

Docket: V25088

Registry: New Westminster

Between:

Tiena Hill

Plaintiff

And

Gurpinderjit Singh Lally and Sadaugar Singh Dhanda in their capacity as the Litigation Guardians of Jayden Kewal Dhanda and Jordan Dhanda

Defendants

Before: The Honourable Justice Bantourakis

Reasons for Judgment

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Place and Dates of Trial:

New Westminster, B.C.

January 6-10 and 13-16, 2025

Place and Date of Judgment:

New Westminster, B.C.

February 28, 2025

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- [1] Mukhtiar Dhanda, who went by the name Mike, passed away tragically in 2022 at only 44 years of age. Among others, he left behind his two young sons, Jayden, who was then 14 years old, and Jordan, who was 12. Because their mother is not involved with them, their father's passing has effectively left them orphaned. They have been through more than any child should.
- [2] Mike passed away without a will. The plaintiff, Tiena Hill, was in a relationship with Mike. Because I will be referring to Mike, his children and their family members by their first names, I will do the same for her. Tiena seeks a declaration pursuant to s. 2(1)(b) of the Wills, Estates and Succession Act, S.B.C. 2009, c. 13 ["WESA"] that she was Mike's spouse at the time of his death. The defendants, who are Jayden and Jordan's interim legal guardians and litigation guardians, oppose this declaration on the children's behalf.

- [3] If Tiena succeeds, she will be entitled to a significant portion of Mike's estate as his spouse, with the remainder going to Mike's sons: WESA, s. 21(4)-(6). If she does not succeed, Jayden and Jordan will share the entirety of the estate as their father's descendants and only intestate beneficiaries: WESA, s. 23(2)(a).
- [4] The value of the estate remains unclear. Mike did not have much of a conventional work history and does not appear to have had many assets in his lifetime. However, in 2018, his mother transferred title to a family blueberry farm to him. In separate proceedings, Mike's mother alleges the transfer was gratuitous and that the property is held on a resulting trust for her benefit. The outcome of that case will determine whether the blueberry farm forms part of Mike's estate or not.
- [5] These reasons do not address that issue. Instead, they deal only with the discrete question of whether Tiena was Mike's spouse at the relevant time. To that end, the parties agree that Mike and Tiena had an intimate relationship over the course of the approximately seven years preceding his death. However, they disagree on whether they were spouses as that term is defined in the relevant legislation.
- [6] This case engages the fact-driven question of whether and when an intimate or dating-type relationship crosses the line to become marriage-like. Here, the analysis is complicated by the fact that Mike is deceased, and therefore unable to explain his intentions for and understanding of the relationship.

BACKGROUND

- [7] Mike and Tiena began dating in May 2015. They met by chance waiting in line at a grocery store one day, and the relationship progressed quickly after that.
- [8] Tiena was 51 years old, had never been married or had a common-law relationship, and had no children. Mike was 37 years old. He had been married but was divorced. His sons Jayden and Jordan were born of that marriage. Mike was the sole guardian of his children, who were then only around five and seven years old. Their mother was not involved with them after the divorce and, sadly, it appears that may still be the case today.
- [9] When Mike and Tiena met, Mike was going through a difficult time. He was mostly estranged from his family, including his eight siblings, and had moved with his children from family-owned property in Richmond, into a basement rental in Surrey, B.C. He does not appear to have been consistently employed at that time, though he may have worked odd jobs and made money on the side by buying and then re-selling items for profit.
- [10] Tiena, on the other hand, was well-established. She had a high-level job in banking and financial compliance and owned a townhouse in Ladner (the "Townhouse").

- [11] By September 2015, Mike and his sons had moved into the Townhouse. Tiena says that this is because they had committed to making a life together. The defendants say it is more likely this was an arrangement of convenience, at least for Mike, who had little income with which to pay rent and support his two children. The children enrolled in school nearby. In December 2015, Tiena had Mike's nickname tattooed on her forearm.
- [12] From about March 2016 until Mike's passing in 2022, Tiena and Mike variously stayed at four different properties. Whether they did so as a cohabiting couple, or were instead visiting the other's home, is disputed. Those properties were:
- (1) a home in Abbotsford that Tiena bought in March 2016 in her name alone (the "Abbotsford House");
 - (2) a Dhanda family property in Richmond that Mike had also lived in at some point before meeting Tiena (the "7331 Property");
 - (3) a home in Ladner that Tiena and Mike bought in May 2018, which they held as joint tenants (the "Ladner House"); and
 - (4) the Richmond blueberry farm I mentioned earlier, which Mike's mother, Gian Dhanda, transferred into Mike's name in July 2018 (the "9240 Property").
- [13] Mike's relationship with his mother, which was fraught, seems to have started improving somewhat around 2016, albeit there were still ups and downs. However, he remained completely estranged from most of the rest of his family.
- [14] In March 2018, Mike was charged with uttering threats against certain of his family members. That charge was stayed not long after, in July 2018. Also in 2018, Dhanda family members were charged with assaulting Mike and Tiena. I am told at least some of those charges resulted in guilty pleas.
- [15] Mike's family say that while Mike could be charming and loving, he also had a temper, mood swings, and some mental health challenges that affected his relationships and the care he provided his children. Tiena largely denies all this. In any event, it is common ground that by the time of his death, Mike still had no contact with his siblings or most of his extended family and, as a consequence but through no fault of their own, his sons had no relationship with those people either.
- [16] On June 7, 2022, Mike collapsed, unconscious, at the 9240 Property. Jayden and Jordan were there. Tiena was not. She was at the Ladner House. Jayden called Tiena for help and she rushed over. Mike was taken to the hospital by ambulance. Tiena went with him, stayed by his side and made health care decisions for him as his substitute decision-maker. He never regained consciousness.

- [17] On June 10, 2022, Mike passed away. In the days following, Tiena spent time at the 9240 Property and took the children to school when they were feeling up to it. She helped organize and spoke at Mike's funeral, along with other family members. She received his cremated remains and paid for the funeral services. After the funeral, Mike's relatives padlocked the 9240 Property's front gate, locking Tiena out.
- [18] On June 17, 2022, two days before the funeral, Tiena filed a Notice of Dispute opposing the taking of any action in relation to Mike's estate. She also later sought exclusive occupancy of the 9240 Property, but the initial order to that effect that she obtained without notice was stayed. She later filed a petition and, at the petition hearing, the Court ordered a trial on whether Tiena was Mike's spouse at the time of his death. That is how the matter has come before me.

ANALYSIS

- [19] As I mentioned at the outset, Tiena seeks a declaration that she was Mike's spouse at the time of his death, which will have a profound impact on her and the children's respective entitlements to Mike's estate. Subsection 2(1) of WESA provides:

2 (1) Unless subsection (2) applies, 2 persons are spouses of each other for the purposes of this Act if they were both alive immediately before a relevant time and

- (a) they were married to each other, or
- (b) they had lived with each other in a marriage-like relationship for at least 2 years.

[]

- (3) A relevant time for the purposes of subsection (1) is the date of death of one of the persons unless this Act specifies another time as the relevant time.

[Emphasis added.]

- [20] The only issue is whether Tiena has discharged her burden of showing that she lived with Mike in a marriage-like relationship for at least two years before his death: *Voth v. Martin*, 2019 BCSC 834 at para. 8. The two-year requirement in s. 2(1)(b) does not necessarily refer to the two years immediately before the deceased's death: *Robledano v. Queano*, 2019 BCCA 150 at paras. 38-43. Here, the defendants do not allege there was any termination of a marriage-like relationship under ss. 2(2) of WESA, but instead that there was never a marriage-like relationship to begin with, or at least not one of sufficient duration.
- [21] The starting point is whether Mike and Tiena "lived with" each other for at least two years. The concept of living with another person is by necessity "susceptible to some factual fluidity to take account of the complexities of modern life including employment and education needs and geography": *Jones v. Davidson*, 2022 BCCA 31 at para. 17.

- [22] In deciding whether a marriage-like relationship existed, it may be important to consider the parties' intentions, particularly whether they saw the relationship as being "of a lengthy, indeterminate duration": *Weber v. Leclerc*, 2015 BCCA 492 at para. 23.
- [23] However, evidence of the parties' intentions must also be tested against objective evidence of lifestyle and interactions, which provides direct guidance on the nature of the relationship: *Weber* at paras. 23-24. "[S]ubjective or conscious intentions may be overtaken by conduct such that whilst a person living with another might not say he or she was living in a marriage-like relationship, the reality is that the relationship has become such": *Dey v. Blackett*, 2018 BCSC 244 at para. 195. Later in these reasons, I will have more to say about the kinds of factors that are helpful to consider in this regard.
- [24] The analysis is holistic and highly fact-specific. The objective evidence "may address a wide assortment of characteristics or indicia for which there is no definitive classification system to determine the ultimate characterization of the relationship": *Jones v. Davidson*, 2022 BCCA 31 at para. 24. Relationships may have features commonly associated with marriage-like relationships without the couple "intending or in fact entering the kind of psychological and emotional union that one associates with marriage": *Dey* at para. 235. Likewise, relationships may lack certain or many of those commonly associated features but still be marriage-like.
- [25] That is, people may legitimately structure their relationships in different ways. The analysis cannot be reduced to a simple checklist or tally of how many factors tend in one direction or another: *Austin v. Goerz*, 2007 BCCA 586 at para. 38; *Coad v. Lariviere*, 2022 BCCA 222 at para. 127. It is important to remember that "[s]pousal relationships are many and varied": *Austin* at para. 58.
- [26] I begin by addressing Mike and Tiena's intentions regarding their relationship generally. I then move on to consider the objective evidence of their lifestyle and interactions.

A. DID MIKE AND TIENA INTEND A MARRIAGE-LIKE RELATIONSHIP?

- [27] Tiena testified about her intentions for her relationship with Mike. The physical chemistry between them was immediate, they enjoyed each other's company, and talked for hours. She says that from very early on it was clear to her that she wanted to make her life with Mike. By August 2015, they had agreed to try to have a child together and, in September, Mike and the children moved in. She says that from at least that time, if not earlier, she understood that she and Mike were living their lives together and that continued unchanged until his passing about seven years later.
- [28] Though the defendants say Tiena's evidence must be approached with caution and question her credibility in several respects, they did not expressly submit that Tiena was not credible in terms of her own intentions for her relationship with Mike. Indeed, acknowledging some of the steps Tiena took with respect to housing and finances in the ensuing months and years, which I address in greater detail below, the defendants' submission was more to the

effect that while Tiena may well have hoped for a marriage-like relationship with Mike, the evidence does not demonstrate that he reciprocated.

- [29] I find that Tiena was credible in describing her feelings of love for and attraction to Mike and her own intention that the relationship be indeterminate in length and imbued with the kind of intimacy and interconnectedness associated with marriage. I accept that she felt this way from at least September 2015 and for the relationship's duration. However, the question of whether Tiena actually understood that her intention for the relationship reflected reality, in the sense that the relationship did in fact have those features, is more complicated.
- [30] Tiena acknowledged that she and Mike may have designated different residences as their principal residences for the purposes of the Speculation and Vacancy Tax Act, S.B.C. 2018, c. 46. Pursuant to section 10 of that Act, spouses, which includes common law spouses, can only claim one residence as a principal residence, unless they can meet one of the exceptions, none of which would apply in this case. Tiena also admitted that she may have declared her marital status for income tax purposes as "single". In this litigation, she did not list or disclose her income tax returns for the relevant years, despite their materiality.
- [31] In the circumstances, I proceed on the basis that Tiena declared her marital status as "single" on her tax filings. I must weigh this in the overall and holistic assessment of Mike and Tiena's relationship. Additionally, because that declaration stands in contradiction with her evidence and position in this litigation, I have generally not accepted Tiena's evidence on contested issues unless, for example, it harmonizes with other independent evidence I have accepted, is reasonable and likely in light of uncontroversial facts, and/or remained consistent despite meaningful and probing cross-examination: see e.g. *Bradshaw v. Stenner*, 2010 BCSC 1398 at paras. 186-188.
- [32] Mike, of course, is not able to give his account of his intentions for the relationship. Additionally, because of Mike's difficult situation with his family, the defendants' ability to lead evidence of Mike's intentions and the nature of the relationship was somewhat limited. Their main witnesses in that regard were Jayden, who was only a child at the relevant times, and Mike's mother Gian, who is very elderly.
- [33] That said, there are two documents that I find directly probative of what Mike's understanding of and intention for the relationship may have been at specific points in time. The first is a note written in Mike's hand, dated September 2015, in which he purports to give Tiena full authority and responsibility for Jayden and Jordan "in case of my absence". Mike's children had previously been placed in care for a time and, considering his estrangement from his family, I accept that he was concerned about who would care for them if he was not able to.

- [34] People may leave their children in the care of any number of individuals they do not intend to be in a spousal relationship with, of course, whether by necessity or otherwise. However, considering this note in light of the evidence as a whole, I find that in September 2015, at least, Mike saw the relationship as both significant and unlikely to end soon.
- [35] The second document is a form Mike signed five years later, consenting to the transfer of Tiena's workplace pension plan when she left her job. It is entitled "Spouse's or Common-Law Partner's Consent for the Transfer of a Pension Benefit Credit". By signing it, Mike seems to acknowledge that he is Tiena's common-law partner or spouse.
- [36] It is possible that Mike signed this form unthinkingly, or only to accommodate Tiena in taking steps regarding her pension, even if he did not have that view of the relationship. However, on the whole of the evidence, I find it is more likely that Mike signed this form because he considered himself to be Tiena's spouse in September 2020, in the sense that they were involved in an ongoing relationship already of some meaningful duration, as a result of which he had acquired legal rights (in this case, vis-à-vis her pension).
- [37] To the opposite effect, the defendants rely on Mike's income tax returns for 2018 to 2020, the authenticity of which Tiena disputes. In those tax returns, Mike's marital status is listed as "divorced". I have concluded that not much can be made of these returns, because the person who prepared them testified that he and Mike had never discussed Mike's marital status and, effectively, that the marital status declaration was based on the tax preparer's prior knowledge of Mike's earlier divorce.
- [38] Even if these tax returns were legitimately Mike's, I find it is more likely that the pension document reflects Mike's understanding of the relationship, than that the marital status declaration on his tax returns does.

B. WERE MIKE AND TIENA'S LIFESTYLE AND INTERACTIONS CONSISTENT WITH A MARRIAGE-LIKE RELATIONSHIP?

- [39] In testing the parties' intentions against objective evidence of their lifestyle and interactions, it can be helpful to consider whether qualities that are generally accepted as possible indicators of a marriage-like relationship are present: Weber at para. 25. These qualities include, for example, whether the parties lived together and under what circumstances, sexual and personal behaviour, domestic services, economic support, children, social activities and the societal perception of the couple: M. v. H., [1999] 2 S.C.R. 3, at para. 59; L.T.F. v. R.B.F., 2023 BCSC 834, at para. 78.
- 1) Cohabitation and domestic services
- [40] Whether Mike and Tiena lived together and, if so, for how long was a major focus of the evidence and arguments at trial. Though cohabitation is not determinative in establishing a marriage-like relationship or how long it lasted, it is frequently afforded significant weight: Basi v. Basi, 2021 BCSC 421 at para. 13; H.S.S. v. S.H.D., 2016 BCSC 1300 at para. 48.

- [41] Cohabitation is not synonymous with co-residence. Two people can cohabit even if they do not live under the same roof: Jones at para. 18, citing Hodge v. Canada (Minister of Human Resources Development), 2004 SCC 65 at para. 42. The words "lived with" therefore encompass relationships where the couple do not share the same residence. Maintaining separate residences does not preclude a finding of a marriage-like relationship: see e.g. Matossian Estate v. Clark Estate, 2024 BCSC 2214.
- [42] It is clear in my view that Mike and Tiena began living together in September 2015. Mike and the boys moved into the Townhouse that month, leaving their Surrey basement rental behind. Mike and Tiena shared a bedroom in the Townhouse. The boys were enrolled in school nearby and Mike wrote the note entrusting his children to Tiena. This much does not seem all that controversial.
- [43] Rather, the parties' disagreement about Mike and Tiena's living arrangements begins around Spring 2016 and continues until Mike's passing.

Parties' positions

- [44] Tiena says that she and Mike continued living together throughout. From March 2016 until some time in 2018 she says they lived in the Abbotsford House. However, starting later in 2016 they also stayed at the 7331 Property from time to time during the week because it was closer to the boys' school. By 2018, they were staying at the 7331 Property more frequently. There was a functioning blueberry farm on that property and renters that Mike sometimes helped his mother with.
- [45] In 2018, Tiena and Mike bought the Ladner House as joint tenants. She says that once they had furnished it, they lived there until Mike's passing, but that they also spent time at the 9240 Property once Mike was placed on title, including overnights, as Mike was tending to it and fixing it up. In 2021, Mike got chickens and guard dogs for the 9240 Property and after that, they spent even more time there.
- [46] The defendants, on the other hand, say that upon reconciling with his mother some time in 2016, Mike stopped living with Tiena. They say he moved back to Richmond, to the 7331 Property, where he had lived before the falling out with his family. Then, after Gian transferred title to the 9240 Property to him in 2018, Mike at some point transitioned to living there. They acknowledge that Mike and Tiena may have visited each other's homes and shared a bedroom when they did, but maintain that they still lived apart.
- [47] Overall, the defendants say that while Mike and Tiena remained in a romantic relationship until his passing, it was more of a dating-type relationship without cohabitation. They submit that it does not make sense that a couple in a committed marriage-like relationship raising two young children would reside in multiple residences within the Lower Mainland, as Tiena described, without some reasonable explanation. Instead, they say this pattern is more consistent with Mike and Tiena maintaining separate residences and visiting each other.

Discussion

- [48] Both parties called evidence from neighbours or tenants at the various properties. Generally, I found this evidence unhelpful. For the most part, these were people with very limited opportunity to observe Mike and Tiena's living arrangements and some of them tended to veer into opinion and speculation. I have given this evidence little weight.
- [49] I accept Tiena's evidence that she bought the Abbotsford House because it could better accommodate the four of them, as compared to the Townhouse, which was smaller. There is independent evidence that the boys had their own room outfitted with bunk beds there and that framed photos of Mike and Tiena together as a couple were displayed in the home. Tiena appears to have declared the Abbotsford House as both her and Mike's address for the purposes of her workplace pension plan. This latter point is notable in that in doing so Tiena was conferring an interest in her pension entitlement on Mike, which would have negatively affected her retirement situation if Mike had lived but the relationship had not lasted. I am satisfied that during this time Tiena was the wage-earner, but also did most of the cooking and helped Mike with projects around the home.
- [50] While Mike was not on title to the Abbotsford House, the evidence that he completed the basement suite in that house, including installing a kitchen, was responsible for the regular maintenance and yard work there, and later helped with the suite rental, was not undermined and I accept it. When Tiena subsequently sold the Abbotsford House (in 2021), Mike attended some meetings with the real estate agent. I accept the real estate agent's evidence that Mike was "in" some of the decision-making, as he put it, though the decisions were ultimately Tiena's to make.
- [51] The defendants stress that the 2016 period coincided with a reconciliation between Mike and his mother, which could explain a move back to the 7331 Property that year. They point to a tax document from October of 2016 that lists the 7331 Property as Mike's address. They also point to the fact that the boys never went to school in Abbotsford, but instead continued going to school in Ladner, very close to Richmond. However, Jayden, who was in the very unfortunate position of having to testify in this matter, acknowledged that he lived in Abbotsford after living in the Townhouse. He testified that he started staying in Richmond more regularly around the time his father began fixing up the 9240 Property, which on the evidence did not begin until sometime in 2018.
- [52] Though Gian testified that Mike seemed to be living at the 7331 Property and then the 9240 Property without Tiena, her evidence was not all that helpful in assessing cohabitation because Gian stayed with more than one of her children during the relevant time. She candidly acknowledged that Tiena may have lived with Mike when she was not there. In fact, Tiena's address is alternately listed as being either at the Abbotsford House or at the 7331 Property on some documents in evidence from 2018.

- [53] From March to July of 2018, Mike was subject to conditions imposed on his release on the uttering threats charge I mentioned earlier. One of those conditions was that he reside at the 7331 Property. Tiena testified that she and Mike requested this because they had been spending more time there anyway and Mike was concerned that the uttering threats allegation had been a ploy by his family members to get him away from the 7331 Property.
- [54] Leaving that aside, two things are of note here. First, the conditions also included a no-contact order with Gian, so she presumably was not residing at the 7331 Property during that period. Second, it is during this time that Mike and Tiena bought the Ladner House and they were both listed on the relevant paperwork as residing at the 7331 Property. In my view, this is consistent with Tiena's account.
- [55] This brings me to the Ladner House. Mike and Tiena acquired it as joint tenants. Mike made no financial contribution to the purchase, but he did jointly undertake the associated mortgage obligation. He also worked on the property, including the landscaping. Jayden testified about walking to school as he got older (instead of being driven). He agreed he could only have done so from the Ladner House. He also agreed that Tiena cooked for them at the Ladner House.
- [56] On the evidence as a whole, the circumstances described immediately above, which I accept, are consistent with Mike and Tiena living together. Conversely, they stand in tension with the defendant's theory that Mike did not live with Tiena, but she nevertheless chose to confer substantial benefits on him, including title to the Ladner House, possibly in the hopes he might commit to her in ways he had yet to do.
- [57] As for the 9240 Property, from the time Mike received title and until his passing, Tiena paid the property taxes, insurance and utilities. She also paid for equipment and material to fix it up, including DJ lights to accommodate Mike's love of music. In a 2018 invoice for a landscaping purchase, Tiena lists her address as the 9240 Property.
- [58] Tiena says she cooked there as well or, because the oven did not work well, sometimes cooked at the Ladner House and brought the food over. Jayden confirmed this latter point though the overall tenor of his evidence was that Tiena did not live at the 9240 Property with him and his father but only visited "multiple times", with those visits decreasing in frequency. I am unable to give this aspect of Jayden's evidence much weight. In general, he had difficulty situating his evidence in time (which is understandable) and reasonably qualified aspects of it in cross-examination.
- [59] The defendants urge me not to place much significance on Tiena's financial contributions to the 9240 Property. They say that just because Mike accepted money or help from Tiena does not mean he lived with her. However, as with Mike's physical labour on the Abbotsford House, these contributions suggest a deeper connection than a frequent guest would have.

- [60] To this end, I do not agree with the defendants' interpretation of Tiena's isolated reference to the master bedroom at the 9240 Property as "your dad's room" in a text message exchange with Jayden. Nor do I make much of the suggestion that Tiena did not keep clothing or toiletries at the 9240 Property. Leaving aside some of the frailties in that evidence, the Ladner House was less than a ten-minute drive from the 9240 Property and I am satisfied that Mike and Tiena were both living between those properties.
- [61] Photos taken from surveillance cameras at the 9240 Property show that in the days leading up to Mike's passing, Tiena was there, including overnight. While, the fact she was not there, and was instead at the Ladner House when Mike collapsed (she says she had a video interview she decided to take from the Ladner House that day) is perhaps some evidence inconsistent with her claim, viewed in light of the evidence as a whole, it does not affect my conclusion that Mike and Tiena were cohabiting until his passing.
- [62] A former work colleague of Tiena's, Mr. Poyraz, testified. He and Tiena worked together from 2015 to 2020 and were in the office together at least once a week. Mr. Poyraz was a measured and seemingly disinterested witness who was careful about what he did and did not remember. I find him credible and reliable.
- [63] I accept Mr. Poyraz's evidence that he heard Tiena on the phone with Mike when she was at the office during this period, discussing daily logistics such as what time Mike would pick Tiena up from work, what they would have for dinner, and the children's pick-up or drop-off from school or activities. He understood that Mike and Tiena lived in Abbotsford, but also went back and forth to Richmond, including because of the boys' school. He also knew they had a house in Ladner, but candidly admitted he was unclear on the timeline.
- [64] One time, Mr. Poyraz went to the Ladner House to drop something off. Mike was there. He remembered seeing a basketball hoop on the driveway, and sports-related things for kids. When he went to the farm in Richmond for blueberries (he tried to go every year, the last year being 2020), Tiena and the children were there.
- [65] I find that Mr. Poyraz' evidence supports a finding, consistent with the broader evidentiary record, that Mike and Tiena were living their daily lives together throughout the relevant period. It also supports Tiena's evidence that they lived in Abbotsford while also staying in Richmond from time to time, and later lived in the Ladner House, again while also staying in Richmond, including because of the blueberry farm.
- [66] It is possible, indeed likely, that Mike and Tiena may have slept in different homes from time to time, considering the manner in which they had arranged their lives and the various properties in which they had interests. However, I am satisfied on the evidence that they were cohabiting and I do not agree with the defendants that there is no reasonable explanation for Mike and Tiena's housing arrangements overall. I find as a fact that Mike and Tiena lived together from September 2015 until Mike's passing.

2) Sexual and personal relationship

- [67] I accept Tiena's evidence that her relationship with Mike became sexual shortly after they met in 2015 and remained that way. Tiena's testimony in that regard is consistent with certain of their text message exchanges, including from shortly before Mike's passing. The evidence was uniform that Mike and Tiena consistently shared a bedroom when they were together.
- [68] The defendants do not dispute that Mike and Tiena had a sexual relationship. However, they do question whether it was exclusive. I am not inclined to detail the evidence in that regard, out of consideration for Mike's children. I will say though that I found it both vague and lacking in credibility. Even if I accepted that the incidents described occurred, they would not alter the overall analysis.
- [69] As to other aspects of the personal relationship between Mike and Tiena, I have already mentioned that Tiena had Mike's nickname tattooed on her forearm. After his passing she had that tattoo enhanced with a mirror image of a tattoo that Mike had, as well as a depiction of Mike's eye. Tiena became visibly and in my view genuinely emotional as she described that the reason for this part of the tattoo was so that Mike would always be with her and so that he could see. I do not agree with the defendants that Mike not having a tattoo of Tiena's name suggests her feelings for him were not mutual.
- [70] Generally, the evidence satisfies me that Mike and Tiena had a very close personal relationship and, as I mentioned earlier, that they shared their daily lives together. The personal communications in evidence are intimate, encouraging and supportive. There are also routine exchanges about daily life and logistics.
- [71] There is a gap in the record of text message communications between Mike and Tiena. There are several messages in evidence from 2015 through to 2018. After that there is one text message exchange from 2020 and then several from the months leading up to Mike's passing in June of 2022. Tiena explained these gaps with reference to difficulties she had with her phone. She says she backed up some messages, but only those with sentimental value. She also said that she stopped working for a year in 2020 and so she and Mike were always together and communicated directly.
- [72] I have considered the significance of these gaps carefully and have concluded that not much turns on them. The tenor of the messages before and after is similar, and other aspects of the record discussed in these reasons are sufficient for the purposes of assessing the overall nature of Mike and Tiena's relationship during the gap-periods.
- 3) Children
- [73] Under the rubric of children, there are two broad areas that were canvassed in the evidence. The first relates to plans Tiena says she and Mike had to have a child of their own. The second relates to Jayden and Jordan.

- [74] On the first point, Tiena says that she became pregnant twice during her relationship with Mike, first in September 2015 and then April 2017. She says that these were planned pregnancies, because she and Mike wanted to have a child together. Unfortunately, she miscarried both times. The defendants did not directly challenge this evidence considering, for example, Tiena's age. Regardless, I have concluded no weight should be given to Tiena's evidence on this because, unlike the evidence canvassed above, it has little to no independent support.
- [75] As for Jayden and Jordan, I have already commented on the note that Mike wrote in September 2015 entrusting his children to Tiena. The evidence satisfies me that Tiena was involved with the children to a degree from that point forward. For example, there are photos of them celebrating Tiena, Jayden and Jordan's birthdays in January 2016. The four of them went to the Abbotsford Air Show together and watched movies. There are some Halloween and Christmas photos. Mr. Poyraz, whose evidence I accept, testified that Tiena's screen saver on her work computer was a photo of Mike and the boys and that she sometimes planned her work travel around the boys' lacrosse schedules.
- [76] In fact, in the days before Mike's passing, Tiena, Mike and the boys went to Gibsons together for a lacrosse tournament. I accept that Tiena drove the boys to school or sports practices from time to time if Mike was not able to. There is also evidence that in 2022, Tiena received communications from Jayden's school regarding his progress in math, and that in 2021 she was the one communicating with school authorities about a school transfer application for Jayden. Tiena was listed as an emergency contact for Jayden's school for the 2021-2022 school year, but not as an alternate caregiver.
- [77] The documentary evidence also includes a Mothers' Day card to Tiena from Jordan, from 2019, and one from Jayden in 2020. There are also drawings by at least one of the boys depicting stick-figures of Mike, Tiena and the boys along with expressions of love.
- [78] In highlighting this evidence, I do not wish to be taken as suggesting that the boys necessarily viewed Tiena as a mother-figure. The evidence was quite clear that they did not wish to remain with her upon their father's passing and have instead been welcomed by the family from which their father was estranged. Jayden's testimony about the emotion he felt when he first understood that he was loved and wanted by his extended family was, in my view, among the most poignant moments of the trial.
- [79] That is, there are any number of reasons the boys may have been motivated to write the cards I mention above. However, regardless of how they perceived Tiena, I do infer that Jayden and Jordan understood that their father's relationship with Tiena was important to him and long-lasting.
- 4) Support and financial

- [80] I find that Mike and Tiena quickly entered into an arrangement by which Tiena provided significant financial support to Mike, that he depended on her in that regard, and this continued until his passing. While financial dependence is not an essential aspect of a marriage-like relationship, it is relevant: Austin at paras. 55-56.
- [81] Mike seems to have had relatively little in the way of income. The tax returns for Mike that the defendants rely on are consistent with that. Tiena, on the other hand, had an established career and was even able to stop working for a while. She did not require Mike to contribute to housing costs, including the purchase price for either the Abbotsford House or the Ladner House. I have already explained that Mike and Tiena owned the Ladner house as joint tenants and that Tiena paid the property taxes, insurance, utilities and some other expenses for the 9240 Property.
- [82] Beyond this, in 2016, after the move to the Abbotsford House, Tiena started paying down Mike's credit card debt. They had a joint bank account to which Tiena was most likely the sole or at least primary contributor. Tiena got Mike a credit card on her account, meaning he had a credit card for his use but she remained liable for payment.
- [83] Towards the end of 2017, Tiena designated Mike as the beneficiary on her RRSP and I have already mentioned that Mike was listed as Tiena's spouse for the purposes of her workplace pension. At a certain point, Mike was also listed as Tiena's spouse on her extended benefit plan through work, though the boys were not included as her dependents, and claims reports in evidence suggest Mike received dental treatment under her plan in 2018 and 2021, as well as massage therapy in 2021.
- [84] The defendants say Mike had a bank account that Tiena did not know about, and incorporated a company during the relationship that she was not aware of, submitting that the degree of financial integration between them was not as great as it may appear. They point out that Tiena has not provided complete records of the joint accounts and emphasize that she did not depend on Mike financially.
- [85] However, accepting all of that, the evidence of Mike's financial dependence on Tiena throughout their relationship cannot be overlooked and I place weight on it. While Tiena did not rely on Mike in the same way, it is apparent that she derived other benefits from the relationship that made their arrangement worthwhile and meaningful for her.
- 5) Social activities and societal perception
- [86] This brings me to Mike and Tiena's social activities and the societal perception of their relationship. The evidence overall left me with the impression that Mike and Tiena had few people with whom they were very close, and may well have taken refuge in each other. A few months before his passing, Mike somewhat poignantly sent Tiena a text message suggesting they run away together to the United States. Mike, as I have already indicated, was estranged from his family. Tiena described herself as a private person. Mr. Poyraz went further and described her as "a very cold person at work", except when she was interacting with or

talking about Mike.

- [87] There was evidence of a Christmas party Mike and Tiena hosted in 2015, and some birthday celebrations in 2016. There were photos consistent with Tiena's evidence that she, Mike and the boys went to the Abbotsford Air Show in 2017, among other years, and had, at least at times, decorated their homes for Christmas or Halloween. Apparently, Mike enjoyed watching UFC and the four of them would sometimes watch movies. Mike and Tiena traveled to Denver in 2017. And, of course, they spent time on the boys' lacrosse.
- [88] However, what was striking at trial was the relative dearth of evidence from people who were close to Tiena or Mike. In contrast, several witnesses were called who had only a passing connection to them and whose testimony I have mostly concluded is of minimal assistance, with the exception of Mr. Poyraz.
- [89] The only family member of Tiena's who testified was her father, and he had only met Mike in person a few times, before the COVID-19 pandemic. I was left with the impression that Tiena's father had gone extended periods without seeing his daughter in person, at least from the time of the pandemic, though they do speak on the phone. Two distant relatives of Mike's, who Mike and Tiena allegedly socialized with, did testify, but I found their evidence both vague and not credible. I place no weight on it at all (some aspects of their evidence would have been to Tiena's benefit, while other aspects would have been to the defendants').
- [90] Tiena seemed to suggest that she and Mike had become more insular after the events of 2018 in which Mike and some of his family members faced criminal charges. There was also the COVID-19 pandemic. Regardless, Mike and Tiena do not appear to have had many people in their lives.
- [91] The role that Tiena played in the days following Mike's collapse and death is relevant under this heading. While the defendants emphasize that the hospital and funeral home were simply going on Tiena's say-so in treating her as Mike's spouse, her involvement over the course of those days is notable. She was also one of only a small number of people who spoke at his funeral, and photos of her and Mike together featured in the slide show of Mike's life that she and some of his relatives prepared. Mike's cousin, who testified at trial, agreed that slideshow only included photos of one woman who was not a Dhanda family member, namely, Tiena.

CONCLUSION

- [92] On a holistic review of all of the evidence, I conclude that Tiena has shown that it is more likely than not that she lived with Mike in a marriage-like relationship for at least two years before his death. I noted earlier in these reasons that Tiena's declaration of her marital status as "single" for taxation purposes would need to be weighed in the balance. I have done that. I have also carefully considered the defendants' evidence and submissions, as well as the cases they have brought to my attention in which marriage-like relationships were not proven to the requisite standard. However, the record before me leads to the opposite

conclusion.

- [93] The objective indicators canvassed above support the view that Mike and Tiena's relationship was marriage-like. Beyond this, my conclusion rests on a global assessment of the relationship as it emerged from the evidence, which persuades me that Mike and Tiena not only lived together for at least two years, but did so intending for their relationship to be an intimate and lasting one, with the kinds of features commonly associated with marriage.
- [94] I find that the marriage-like relationship began in September 2015, when Mike and Tiena started living together, Mike concluded he wanted to entrust his children to Tiena, Tiena began providing the kind of financial support to Mike that characterized their entire relationship, and they started living their daily lives together. That relationship continued uninterrupted until Mike's untimely death almost seven years later.
- [95] There are no happy outcomes here. Jayden and Jordan have lost their father and his passing without a will has left them in a different position than they might otherwise have been. Tiena, for her part, has clearly felt compelled to pursue this litigation.
- [96] In the ordinary course, as the successful party, Tiena is entitled to her costs at Scale B. However, if the parties wish to make submissions on costs, they may do so in writing. In that event, their submissions (not to exceed five pages each) and any affidavit evidence they wish to rely on should be exchanged according to a schedule to be agreed between counsel, with the first submission to be filed with the registry within 30 days of the release of these reasons.

"Bantourakis, J."

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