

CANADA / JUDGMENT

Hodgins v. Hodgins

2025 BCSC 799

COURT

Supreme Court of British Columbia

DECIDED

29 April 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 799 Hodgins v. Hodgins

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Hodgins v. Hodgins,

2025 BCSC 799

Date: 20250429

Docket: E211013

Registry: Vancouver

Between:

Timothy John Heathcote Hodgins

Claimant

And

Sharon Jayne Hodgins also known as Sharon Jayne Oxley also known as Sharon Jayne Wood

Respondent

Before: The Honourable Justice J. Hughes

Reasons for Judgment

Counsel for the Claimant:

I. Phillips

Counsel for the Respondent:

C. Lewis

Place and Dates of Hearing:

Vancouver, B.C.

October 30, 2024

January 14 & February 6, 2025

Supplemental Written Submissions of the Respondent:

March 19, 2025

Supplemental Written Submissions of the Claimant:

April 4, 2025

Place and Date of Judgment:

Vancouver, B.C.

April 29, 2025

Table of Contents

Overview.. 3

Background.. 3

The Galiano Property. 4

Parties' financial circumstances. 5

Analysis. 7

Is a sale of the Galiano Property necessary?. 9

Is a sale of the Galiano Property expedient?. 14

Conclusion.. 17

Overview

- [1] This is an application brought by the respondent, Sharon Hodgins, for an order that a property located at 108 Twiss Road, Galiano, British Columbia (the "Galiano Property"), be listed for sale pursuant to Rule 15-8(1) of the Supreme Court Family Rules, B.C. Reg. 169/2009 [SCFR]. The claimant, Timothy Hodgins, opposes the sale.
- [2] The sole issue presently before the Court is whether the Galiano Property ought to be ordered sold. Ms. Hodgins initially sought a variety of additional orders, but they were either addressed by way of a consent order made October 30, 2024, or adjourned generally.

Background

- [3] The parties were married in March 2003 and separated in March 2020. They have three adult children.
- [4] The parties have the following real properties:
 - a) the Galiano Property, which is registered in Mr. Hodgins' name;
 - b) the former family home located on Balaclava Street in Vancouver (the "Balaclava Property"), which is registered in both parties' names; and
 - c) a property in Whistler (the "Whistler Property"), which is registered in Ms. Hodgins' name.
- [5] It is undisputed that these properties are family property.
- [6] By way of a consent order made May 5, 2023 (the "Consent Order"), the parties agreed that they would each pay 50% of the property taxes and monthly amounts due on the lines of credit registered against the Balaclava and Whistler Properties. They also agreed that Ms. Hodgins would be responsible for payment of all of the costs and expenses relating to the Balaclava and Whistler Properties, and Mr. Hodgins would be responsible for the costs and expenses relating to the Galiano Property.
- [7] Ms. Hodgins remained in the Balaclava Property after separation and continues to reside there, together with two of the parties' adult children. Mr. Hodgins initially lived in rental accommodation post-separation. In October 2023, he gave up his rental accommodation and says that the Galiano Property became his primary residence. Mr. Hodgins also stays at his girlfriend's place in Vancouver "from time to time". The parties' middle child also lives with Mr. Hodgins' girlfriend in Vancouver.

The Galiano Property

- [8] The Galiano Property is a waterfront property on Galiano Island consisting of a main home and a guest home. It was purchased in 2017 for \$1,000,000, of which \$800,000 was drawn from a line of credit secured against the Balaclava Property. The existing house on the Galiano Property was demolished, and construction of a new main residence and guesthouse was undertaken.
- [9] Ms. Hodgins says that she did not agree with the purchase of the Galiano Property and became increasingly concerned about the parties' financial situation. By December 2019, the construction contractor had been paid in excess of \$3,000,000. The project was suspended for a time, but in March 2020, Ms. Hodgins learned that Mr. Hodgins continued to pay the contractor and asked him to leave, thereby ending the parties' relationship.

- [10] The Galiano Property was still under construction when the parties separated. Ms. Hodgins did not agree to incurring additional debt to complete construction of the Galiano Property. Mr. Hodgins continued to finance ongoing construction with funds borrowed from his father, John Hodgins, and a corporation HFX Markets Ltd. ("HFX"), a company he and his father own, and through loans advanced to him by his current employer, Blackheath Fund Management Inc. ("Blackheath").
- [11] Ms. Hodgins estimates that as of October 2023, in excess of \$5.2 million has been spent to purchase and construct the Galiano Property "exclusive of the cost of servicing the line of credit debt which was incurred to buy the Galiano Property and to pay for construction".
- [12] In September 2024, a mortgage in the amount of \$375,000 (the "HFX Mortgage") was registered against the Galiano Property in favour of HFX. The HFX Mortgage secures a personal loan provided to Mr. Hodgins by HFX in February 2024. Mr. Hodgins is not presently required to service the debt secured by the payments in respect of the mortgage registered against the Galiano Property.

Parties' financial circumstances

- [13] The Whistler and Balaclava Properties secure lines of credit which the parties used to, among other things, purchase and construct the Galiano Property. There are two lines of credit secured against the Balaclava Property, which as of July 2024, had outstanding balances of \$1,105,713.44 for account number ending in 1248 and \$228,865.44 for account number ending in 9610. According to Mr. Hodgins, the account ending in 1248 is "maxed out".
- [14] The Whistler Property has a Scotiabank line of credit with account number ending in 2572 secured against it, with an outstanding balance as of July 2024 of \$305,534.13. Mr. Hodgins says that this account has been frozen. The Whistler Property also has a mortgage registered against title in favour of Scotiabank, having an outstanding balance of \$72,318.41, as of July 2024.
- [15] The parties have also used their lines of credit to fund other expenses, such as payment of university tuition for one of the children and expenses incurred in relation to this litigation including property appraisals, business valuations and guideline income reports.
- [16] The parties are paying approximately \$120,000 in annual interest costs--\$5,000 each per month--to service the line of credit debt secured by the Balaclava and Whistler Properties. It is common ground that they cannot afford to continue to service this debt. Neither party took the position on this application that the debt registered against the Balaclava and Whistler Properties for the purchase and construction of the Galiano Property is not family debt.

- [17] Mr. Hodgins estimates that the parties have equity of approximately \$2,100,000 in the Balaclava Property and \$2,485,000 in the Whistler Property. However, the accuracy of these estimates is questionable, as there are no current appraisals for the Whistler or Balaclava Properties presently before the Court, nor is there any documentation establishing the current amounts owing on the lines of credit secured against them. The 2024 BC Assessment values for the Balaclava and Whistler Properties were \$3,502,200 and \$2,785,000 respectively.
- [18] The Galiano Property was appraised at \$3,020,000 as of July 2024 and has the HFX Mortgage registered against it in the amount of \$375,000.
- [19] Mr. Hodgins has worked in the securities and foreign exchange trading industry since the 1990s. Mr. Hodgins engaged in a trading strategy through which he effected "straddle trades" which resulted in deferred taxes for himself and HFX's clients.
- [20] The Canada Revenue Agency ("CRA") took issue with this strategy and reassessed Mr. Hodgins for the 2016 to 2021 tax years. Those reassessments have resulted in tax debt, interest and penalties for Mr. Hodgins of \$14,377,765.07 as of June 2024. Mr. Hodgins' position is that this tax debt is family debt. HFX has also been assessed a tax shelter promotion penalty of \$8,815,862 and tax of \$1,883,988. Mr. Hodgins and HFX have appealed, but Mr. Hodgins acknowledges that it is unlikely that they will succeed on appeal in light of adverse rulings made in related proceedings involving one of HFX's clients.
- [21] In 2021, Mr. Hodgins and his father became involved with Blackheath. Blackheath is owned by Mr. Hodgins' father, John Hodgins. Mr. Hodgins is currently employed by Blackheath as a trade desk administrator, earning an annual salary of \$72,000. Mr. Hodgins and his father intend to use Blackheath to continue their foreign exchange trading activities, but not using the "straddle trades" that were challenged by CRA and resulted in HFX and Mr. Hodgins being reassessed.
- [22] Since 2022, Mr. Hodgins appears to have borrowed approximately \$1,300,000. This includes a \$700,000 interest-free loan he received from Blackheath in 2022, which will be forgiven if he remains employed with Blackheath for five years, and additional loans from his father.
- [23] Additionally, in January 2024, HFX sold shares in Velocity Trade Holdings Ltd. (the "Velocity Shares"), generating sale proceeds of \$824,000, of which Mr. Hodgins received \$264,000. Ms. Hodgins asserts that the Velocity Shares were family assets. In February 2024, after the Velocity Shares were sold, HFX loaned Mr. Hodgins \$375,000. Seven months later, in September 2024 (after this application was filed and served), the HFX Mortgage was registered against title to the Galiano Property.

[24] Ms. Hodgins did not work outside the home after the parties' first child was born. Post-separation, she worked part-time in a wool shop earning minimum wage from October 2021 to April 2022. In December 2021, Ms. Hodgins began operating the Whistler Property as a short-term rental, earning net rental income of approximately \$85,000 in 2022 and \$70,000 in 2023. In August 2024, Ms. Hodgins began working as a product sampler, earning \$20 per hour.

Analysis

[25] Rule 15-8(1) of the SCFR permits family property to be sold where a sale is necessary or expedient:

Court may order sale

- (1) If in a family law case it appears necessary or expedient that property be sold, the court may order the sale and may order a person in possession of the property or in receipt of the rents, profits or income from it to join in the sale and transfer of the property and deliver up the possession or receipt to the purchaser or person designated by the court.
- [26] Rule 15-8 engages the exercise of judicial discretion. An order for sale under Rule 15-8(1) can be made on an interim basis: *Halan-Harris v. Blain*, 2023 BCSC 681 at para. 13, citing *K.J.M. v. P.D.A.*, 2011 BCSC 1729 at para. 13.
- [27] Rule 15-8(1) is disjunctive: an order for sale can be made where it is necessary or expedient. A party seeking an order for sale under this rule is not required to establish both necessity and expediency: *Etemadi v. Maali*, 2021 BCCA 298 at para. 85. Accordingly, if an order for sale is necessary, it can be made even if a sale is not expedient. This is made clear in *Etemadi*:
- [85] I would agree that the court may order a sale of property if the applicant can satisfy one or the other of the two prerequisites. This may be the case even where a sale is clearly not expedient to the parties, which this Court has interpreted to mean "advantageous": see *Reilly v. Reilly* (1992), 99 D.L.R. (4th) 47 (B.C.C.A.) at para. 35; *Tomic v. Tough*, 2013 BCCA 355 at para. 26. In this case, while a sale was clearly not advantageous from the appellants' perspective, it could be justified on the basis of necessity alone.

[emphasis added]

- [28] The applicant bears the onus of establishing necessity or expediency. If a sale is not necessary and the applicant relies on expediency, then the sale must be objectively advantageous to both parties: *K.J.M.* at para. 14; *Dosanjh v. Lalli*, 2021 BCCA 204 at para. 33. Whether it is "necessary or expedient" for property to be sold will depend on the circumstances of each case: *Dosanjh* at para. 33. In the family law context, relevant factors for consideration under Rule 15-8 may include, among others, the availability of alternative accommodation, the emotional condition of the spouses, external economic factors, wasting

of the asset, the capacity of both parties to maintain the asset, whether the status quo should be preserved until trial, whether the sale will defeat a claim for reapportionment, and the likelihood that an order for sale will promote settlement: *Luo v. Chan*, 2025 BCSC 703 at para. 40, citing *Laflamme v. Beauparlant*, 2024 BCSC 1008, at para. 31; *Dosanjh* at para. 33.

- [29] If the applicant does not establish that an interim sale is necessary or expedient, or there are any doubts regarding the justice of such an order, then the status quo should prevail: *Kapoor v. Makkar*, 2020 BCCA 223 at para. 22; see also *Etemadi* at para. 89.

Is a sale of the Galiano Property necessary?

- [30] Whether a sale is necessary is generally based on the financial circumstances of the parties and is, therefore, often intertwined with the parties' ability to maintain the property and avoid any wasting of it until a final resolution is reached: *Luo* at para. 41; *Laflamme* at paras. 31-32. Necessity is often established where the financial circumstances of the parties are such that there is a certain inevitability that the property will have to be sold: *R.R.S. v. B.R.M.S.*, 2021 BCSC 1330 at paras. 29-30, as cited in *Raj v. Raj*, 2022 BCSC 110 at para. 122.
- [31] In my view, the parties' financial circumstances are such that there is a certain inevitability that the Galiano Property will have to be sold. First, it is undisputed that they cannot afford to continue to carry their existing debt load. Mr. Hodgins concedes this to be the case, admitting that "[d]ebt servicing costs us approximately \$120,000 per year, and neither the [r]espondent nor I can afford to carry such high debts". Mr. Hodgins also acknowledges the prospect that it may be necessary for the parties to liquidate all of their assets.
- [32] It is also undisputed that the debt secured against the Balaclava Property includes \$800,000 that was used to purchase the Galiano Property lands. Additional funds in excess of \$4,400,000 have subsequently been spent to design and construct the main residence and guest house on the property. While the amount of funds for construction of the Galiano Property that were drawn on the Balaclava and Whistler Properties' lines of credit is disputed, the fact that these lines of credit were used to fund the construction of the Galiano Property is not.
- [33] Second, construction of the main residence on the Galiano Property remains incomplete, and the parties do not have the funds necessary to complete construction. Additional work of between \$95,000 to \$125,000 is required, plus additional expenses to remediate certain lower quality aspects of the home that the appraiser notes were finished to the bare minimum standard needed to obtain an occupancy permit. Mr. Hodgins wants the parties to jointly borrow additional funds to complete construction; Ms. Hodgins is opposed to doing so.
- [34] Third, the Galiano Property is not being maintained and may be depreciating in value. In November 2021, when it was 70% complete, the Galiano Property was appraised at \$3,240,000 "as is" and \$4,600,000 if complete. In July 2024, when it was 85% complete, the Galiano Property was appraised at \$3,020,000 "as is" and \$3,900,000 if complete. It is unclear

the extent to which external market factors have affected the Galiano Property's value. The appraisal also noted "significant items of deferred maintenance, including refinishing the exterior walls, refinishing the guest cottage deck and very rusted fencing" and found that "relative [to] previous appraisals of this property, the completed dwelling is considered to be of lower quality and condition". Failure to maintain the Galiano Property is a significant factor militating in favour of an order for sale: R.R.S. at para. 30.

- [35] Fourth, Mr. Hodgins has encumbered the Galiano Property post-separation by granting the HFX Mortgage. The HFX Mortgage was granted "to secure the payment to [HFX] of all of [Mr. Hodgins'] present debts, liabilities, and obligations, to [HFX] pursuant to or contemplated in the Loan Agreement and Promissory Note dated February 1, 2024 and executed on September 10, 2024, in the amount of \$375,000". Mr. Hodgins concedes that the HFX Mortgage is an encumbrance on family property.
- [36] Fifth, Mr. Hodgins faces the likely prospect of significant tax debts resulting from the CRA reassessments, debts which exceed \$14,000,000 for him personally. Neither party disputes that the CRA tax liabilities alone far exceed their combined equity in the Balaclava, Whistler and Galiano Properties.
- [37] Mr. Hodgins' financial difficulties are also illustrated by the fact that he has not paid the child and spousal support he agreed to pay pursuant in the May 2023 Consent Order. Mr. Hodgins' current arrears are alleged to be in excess of \$400,000. While I exercised my discretion to hear Mr. Hodgins on this application despite his acknowledged and ongoing non-compliance with the Consent Order, this ought not to be taken as the Court condoning such conduct. Court orders are to be complied with until they are varied or set aside. Mr. Hodgins' intention to have the Consent Order varied does not excuse non-compliance in the interim, particularly given that he had not taken steps in furtherance of that objective until raised by the Court. Parties who fail to respect the judicial process ought not to expect to be granted the indulgence of being heard by the Court: *Larkin v. Glase*, 2009 BCCA 321 at paras. 30-37; *K.P.B. v. A.S.R.*, 2016 BCCA 382 at para. 37.
- [38] Finally, the parties' earning prospects are limited. Mr. Hodgins acknowledges that his ability to continue earning an income has been significantly curtailed by the CRA's successful challenge to the trading strategy that he utilized in executing trades over the years. He is also incurring significant legal fees in challenging the CRA reassessments. For her part, Ms. Hodgins earns \$20 per hour as a product sampler and supplements her income with rental income from the Whistler Property.
- [39] In light of the above, I find that the parties' financial circumstances are such that it is inevitable that the Galiano Property will have to be sold.

- [40] In so concluding, I reject Mr. Hodgins' submission that a sale is not "necessary" under Rule 15-8(1) because there is no debt registered against the Galiano Property that the parties are not able to service, and no evidence that he is not able to meet his financial obligations to maintain the Galiano Property.
- [41] In this respect, Mr. Hodgins asserts that the court lacks jurisdiction under Rule 15-8 to order that a property be sold to pay debts secured against other properties. Put differently, Mr. Hodgins says that order for sale cannot be made in respect of the Galiano Property because the debt incurred to purchase and construct it was incurred on lines of credit registered against the Balaclava and Whistler Properties. I do not accept this submission.
- [42] Mr. Hodgins is attempting to import a limitation into Rule 15-8(1) that is not present on the face of the Rule or in the jurisprudence interpreting it. Circumscribing the Court's discretion in the manner that Mr. Hodgins proposes would also be inconsistent with Rule 15-8(3), which confers broad discretion on the Court to give directions for the purpose of effecting a sale, including "requiring payment of the purchase price into court or to trustees or to other persons" (emphasis added): Rule 15-8(3)(e).
- [43] Nor is there any precedent in the jurisprudence for limiting the Court's jurisdiction under Rule 15-8(1) to make an order for sale only where the proceeds thereof are to be used to repay debts secured against the property being sold. Mr. Hodgins relies on *C.K.M. v. H.R.M.*, 2021 BCSC 1297 at para. 65, in support of his position. *C.K.M.* is of little assistance as it dealt with the purposes for which the Court can order an interim distribution of family property under s. 89 of the Family Law Act, S.B.C. 2011, c. 25. Ms. Hodgins is no longer seeking an interim distribution under s. 89, and *C.K.M.* does not address Rule 15-8.
- [44] Rather, directions with respect to distribution of the proceeds of sale are commonly made with respect to payment of charges registered against the property being sold. The jurisprudence illustrates that proceeds can also be used to pay debts related to or incurred in respect of the subject property, including, for example, arrears of property taxes, utilities, interest and penalties: see e.g. *A.C.M. v. T.H.M.*, 2024 BCSC 883 at paras. 66-68; *Barkley v. Barkley*, 2021 BCSC 478 at para. 27.
- [45] It is undisputed that funds were drawn on the lines of credit secured by the Balaclava and Whistler Properties for the purpose of purchasing and constructing the Galiano Property. Those debts would not have been incurred but for the purchase of the Galiano Property. In such circumstances, the fact that the debt incurred in respect of the Galiano Property is secured against the Balaclava and Whistler Properties--not the Galiano Property itself--does not defeat an application for an order for sale under Rule 15-8. The fact that the Galiano Property is itself unencumbered by the debt incurred for its purchase and construction is a distinction without a meaningful difference.
- [46] I thus reject Mr. Hodgins' submission that a sale of the Galiano Property is not "necessary" because the court lacks jurisdiction to order that the proceeds of sale be used to pay debt incurred to purchase and construct the Galiano Property because that debt is secured by

lines of credit registered against the Balaclava and Whistler Properties. I am not persuaded that the Court's jurisdiction is so limited, or that the manner in which the parties structured the debt incurred for the Galiano Property renders its sale any less necessary given the parties' present financial circumstances.

- [47] Second, by Mr. Hodgins' own admission, additional borrowing will be required to complete construction of the Galiano Property. He has already borrowed extensively--predominantly from his father and their corporate entities, HFX and Blackheath--to meet his expenses. Despite this, construction of the Galiano Property has not been completed, and it has since been encumbered by the HFX Mortgage.
- [48] I also reject Mr. Hodgins' assertion that there is no evidence that he is unable to meet his financial obligations to maintain the Galiano Property. The appraisal report suggests that maintenance has been deferred. Ms. Hodgins also testified that Mr. Hodgins was unable to pay the 2023 property taxes of \$11,991.33 for the Galiano Property taxes when due, incurred a late penalty of \$1,229.12, and in December 2023, entered into a repayment plan whereby he pays \$1,000 per month towards this debt.
- [49] Mr. Hodgins did not refute these assertions. Rather, he says that he paid \$8,190 in "property taxes" in the period from July to December 2023, and \$4,000 in property taxes in the January to May 2024 timeframe. The 2024 payments may have been pursuant to the repayment plan referenced in Ms. Hodgins' evidence, but this is unclear because Mr. Hodgins does not directly address that point in his evidence, nor does he identify which of the three properties those taxes were paid in respect of. This latter point is notable because pursuant to the Consent Order, Mr. Hodgins is not only responsible for the Galiano Property taxes, but also for 50% of the property taxes for the Balaclava and Whistler Properties. The Galiano Property taxes for 2024 are \$14,240.39. There is no evidence before me as to whether those taxes have been paid in full or in part, and if not, how Mr. Hodgins plans on funding this expense given his assertion of limited financial means.
- [50] In the result, I find that a sale of the Galiano Property is "necessary" as contemplated under Rule 15-8(1).

Is a sale of the Galiano Property expedient?

- [51] Rule 15-8(1) is disjunctive; therefore, my conclusion that a sale is "necessary" means that it is unnecessary to consider whether it is also expedient. However, in the event that I am incorrect in my finding that a sale is necessary, then I would also conclude that it is expedient.
- [52] There are multiple ways in which selling the Galiano Property is advantageous to both parties. First, if the property is sold and the proceeds are applied to pay down the lines of credit on the Whistler and Balaclava Properties, this will decrease the existing family debt, thereby reducing the expenses that the parties are presently incurring to service those debts. It is undisputed that servicing this debt costs each party approximately \$5,000 per

month, which expense will no longer need to be incurred if the Galiano Property is sold. A sale will also have the effect of crystalizing the value of that property in circumstances where the evidence demonstrates that it is not being maintained and may be decreasing in value, and eliminating the ongoing costs associated with retaining it. In addition, selling the Galiano Property will crystalize its value, which may assist the parties in reaching a settlement, and will reduce litigation costs going forward by narrowing the issues for trial and obviating the need for further appraisals. Promoting early settlement is a factor supporting an order for sale: *Frost v. Osadchuk Estate*, 2023 BCSC 169 at para. 65.

- [53] While I accept that Mr. Hodgins wishes to retain the Galiano Property, his present financial circumstances suggest that he does not have the means to do so. Indeed, he testified that he does not have the ability to buy Ms. Hodgins' interest in the Galiano Property. Nonetheless, it is estimated that it may take nine to twelve months of market exposure for the Galiano Property to sell, which would provide ample time for Mr. Hodgins to explore his options in that respect and the parties to discuss and potentially agree on suitable alternative arrangements.
- [54] In so concluding, I would not accede to Mr. Hodgins' submission that selling the Galiano Property is not advantageous to both parties, and therefore not expedient, because additional work needs to be completed to maximize its value and sale price. Mr. Hodgins deposes that "[w]e need to borrow to complete the house and let it mature and improve in value over time. The cost of borrowing is less than the average predicted return of the finished house ". Accordingly, Mr. Hodgins says that selling the Galiano Property in its current condition would not make "good business sense" because it would "leave money on the table".
- [55] On the record before me, it remains speculative whether completing additional work at the property would in fact yield a higher sale price in the current market conditions. By way of example, the appraised value of the Galiano Property at 85% completion in July 2024 was less than the November 2021 appraised value when it was only 70% complete.
- [56] Further and more importantly, the parties simply do not have the funds available to pay for the necessary costs to undertake such work. Any additional work would need to be funded through further borrowing. It is undisputed that the parties cannot afford to carry their current debt; they clearly are not in a position to incur additional debt to complete the Galiano Property. Moreover, additional further borrowing would, in all likelihood, need to be secured by the Galiano Property, thereby further depleting the parties' equity in the absence of any assurance that completing the repairs would yield a sale price higher than the additional costs incurred to do so.

- [57] Mr. Hodgins' assertion that it is not advantageous to both parties to sell the Galiano Property, because it is his primary residence and a sale would "eliminate accommodations" for him is unpersuasive. It is often the case in family law proceedings that a property in respect of which an order for sale is sought is one of the parties' principal residences. I am not satisfied that Mr. Hodgins will be left without anywhere to live if the Galiano Property is sold.
- [58] Mr. Hodgins uses the Galiano Property as his mailing address and for car insurance and voting purposes; those facts alone are not determinative of where he in fact spends the majority of his time. While Mr. Hodgins says that he stays with his girlfriend in Vancouver from "time to time", I find this likely underestimates the amount of time that Mr. Hodgins spends in Vancouver and at his girlfriend's home, particularly given that the parties' son is also presently living with her rent-free. Mr. Hodgins own evidence was that as of June 2024, he would spend four days a week (Friday through Monday) at the Galiano Property, and three days per week (Tuesday to Thursday) in Vancouver.
- [59] Further, if the Galiano Property is sold and the proceeds are applied to reduce the parties' debts, this will reduce the parties' monthly expenses, thereby freeing up funds that Mr. Hodgins can use to secure rental accommodation.
- [60] Finally, while I accept that Mr. Hodgins wishes to retain the Galiano Property "as his desired property in final settlement or judgment", this seems improbable given the parties' financial circumstances, but regardless, it does not negate the advantages to the parties of a sale as outlined above. The suggestion that Mr. Hodgins may be in a position to buy out Ms. Hodgins' interest in the Galiano Property appears unrealistic given his present financial circumstances and notably, Mr. Hodgins did not seek any term or condition be included in an order for sale that would afford him the opportunity to do so.
- [61] At base, the only real disadvantage to Mr. Hodgins arising from a sale of the Galiano Property that emerges on the evidence before me is that he will have to sell a property that he cannot, in any event, afford to complete, maintain and retain. The advantages to both parties of ordering the property be sold and the proceeds applied to reduce debt that they both agree they cannot afford to service, are patent. In my view, it is advantageous to both parties and thus expedient that the Galiano Property be sold.

Conclusion

- [62] In the result, I conclude that the sale of the Galiano Property is both necessary and expedient, and order that it be sold pursuant to Rule 15-8 of the SCFR.
- [63] Following conclusion of the hearing of this application, it became apparent that the application materials had not been served on HFX in strict compliance with the SCFR. This may arise at least in part from the fact that the application was initially filed and served in July 2024, but the HFX Mortgage was not registered against title to the Galiano Property until September 2024. Regardless, it is undisputed that Mr. Hodgins and his father are the sole directors of HFX, and the procedural history of this application, as articulated by both

counsel in their supplemental submissions on this application, satisfies me that Mr. Hodgins and his father, and by consequence HFX, had notice of the relief being sought on application and an opportunity to consider their positions in response. It is material in this respect that at no point in the course of the hearing did Mr. Hodgins raise the lack of service on HFX; the issue only came to light when raised by the Court.

[64] In the circumstances, considering the principles of common law service as articulated in *Melco Resorts (Macau) Limited v. Huang*, 2023 BCSC 631 at para. 31, and the flexibility afforded by Rule 6-6(4) of the SCFR, I conclude that HFX knew, or reasonably ought to have known, that this application was being brought and an order for sale was being sought in respect of the Galiano Property. Both of HFX's directors were aware of and had copies of this application, and I am advised that a prior adjournment of the application was granted at Mr. Hodgins' father's request. Accordingly, I find that in these circumstances, the lack of strict compliance with the SCFR in terms of service of the application on HFX does not present a bar to granting an order for sale of the Galiano Property on the terms as set out below.

[65] In the result, I order that the Galiano Property be sold on the following terms:

- a) the Galiano Property is to be listed for sale within 45 days of the date of this order unless the parties are able to agree to suitable alternative arrangements;
- b) the parties will have joint conduct of sale of the Galiano Property and will list the Galiano Property for sale with one or more licensed real estate agents on terms as to commission and listing prices, to be determined in consultation with the real estate agent(s);
- c) the Galiano Property is to be listed continuously until sold, subject to agreement of the parties or further court order;
- d) any expenses necessarily incurred to prepare the Galiano Property for sale are to be agreed on by the parties, in consultation with the real estate agent(s);
- e) Mr. Hodgins will maintain the Galiano Property in good showing condition at all times pending completion of a sale;
- f) Mr. Hodgins, or any person in possession of the Galiano Property on his behalf, shall, on reasonable notice, permit any agent authorized by the parties to inspect, appraise or show the Galiano Property, including the interior of the premises, to prospective purchasers on any day between 9:00 a.m. and 6:00 p.m.;
- g) the proceeds of sale from Galiano Property are to be paid as follows:
 - i. the usual adjustments between vendor and purchaser;
 - ii. real estate commissions;
 - iii. legal fees and disbursements relating to the sale of the Galiano Property;

iv. those portions of the balances owing on the lines of credit registered against the Whistler and Balaclava Properties incurred in respect of the purchase and construction of the Galiano Property;

v. the HFX Mortgage into a separate interest-bearing trust account held by counsel for Mr. Hodgins pending agreement of the parties and HFX, or further court order; and

vi. the remaining balance into an interest-bearing trust account held by counsel for Mr. Hodgins, subject to agreement of the parties or further court order.

[66] The parties are at liberty to apply before me for directions regarding the conduct of sale of the Galiano Property and distribution of the proceeds of sale thereof, including in the event that they are unable to agree on the payments to be made in respect of para. 65(g)(iv).

[67] Ms. Hodgins is entitled to her costs of the application, payable in the cause.

"Hughes J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/07/2025BCSC0799.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/hodgins-v-hodgins-2025>

Prepared on 26 October 2026 · Esheria