

CANADA / JUDGMENT

King v. Vimhel

2024 BCSC 1745

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Supreme Court of British Columbia

DECIDED

20 September 2024

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2024 BCSC 1745 King v. Vimhel

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

King v. Vimhel,

2024 BCSC 1745

Date: 20240920

Docket: S209326

Registry: Vancouver

Between:

Judith King by her litigation guardian Owen Christopher King

Plaintiff

And

Zoltan Vimhel, also known as Steven Vimhel

Defendant

Before: The Honourable Justice Donegan

Reasons for Judgment

Counsel for the Plaintiff:

J.E. Les

No other appearances:

Place and Date of Hearing:

Vancouver, B.C.

July 11-12, 2024

Place and Date of Judgment:

Vancouver, B.C.

September 20, 2024

Introduction

- [1] The plaintiff, Judith King, is 88 years old and currently resides in a care home. Since the commencement of this proceeding, she has lost capacity due to advancing dementia. Her son, Owen King, was appointed as her litigation guardian in January 2024.
- [2] The defendant, Zoltan Vimhel, also known as Steven Vimhel, met Ms. King in 2013. Ms. King was elderly and vulnerable. Mr. Vimhel preyed upon her. From the time they met until her rescue in 2020, Mr. Vimhel systematically isolated, manipulated, deceived, abused, and exploited Ms. King. By the end of their relationship, his control over all aspects of her life was so complete that she was deprived of her family, friends, neighbours, home, property and her considerable savings. The culmination of this predatory relationship occurred in March 2020, when Mr. Vimhel deceived Ms. King into adding him as a joint tenant of her home. While there is now no prospect Ms. King will recover her health and all of her savings, this litigation aims to give her back her home.
- [3] The defendant initially participated in this litigation, but he has disappeared. It has been more than two years since plaintiff's counsel has received any response from him. Although properly served, Mr. Vimhel did not respond to this application.
- [4] The plaintiff applies, by way of summary trial, for judgment in her favour. On July 12, 2024, after being satisfied that this matter was suitable for determination in this manner, I granted judgment in the plaintiff's favour, with reasons to follow. These are those reasons.
- [5] I will begin by outlining the facts established by the plaintiff. I will not consider any inadmissible hearsay the affidavits may contain.

Background Facts

- [6] The following is a summary of the salient facts. I will outline additional findings of fact when I consider the specific issues.
- [7] The plaintiff, Judith King, is 88 years old and currently resides in a care home. She is the registered owner of property located at Unit 2 - 348 Bewicke Avenue in North Vancouver, British Columbia (the "Property"). She has owned the Property since 1991.
- [8] The Property is part of a four-unit strata development. Ms. King lived at the Property from 1991 to 1998 and again from 2005 to 2017, when the defendant moved her into a motel.

- [9] In addition to the Property, Ms. King also owned a vacation condominium in Parksville (the "Parksville Property"). The Parksville Property had been in her family for some time and she, her family and her friends used it regularly. Ms. King also had considerable savings at the time she met the defendant, including approximately \$465,000 in an investment account.
- [10] Ms. King met the defendant in 2013. At the time, Ms. King was doing well physically, emotionally, socially and financially. She was, however, vulnerable to predators like the defendant: Ms. King was 77 years old; she lived alone at the Property, and she had periodically confided in her friend, Sharon Lisette, that she was lonely.
- [11] At the time she met the defendant, Ms. King enjoyed very close relationships with family members, including her children, Georgina King ("Georgina") and Owen King ("Owen"). They communicated and visited often. Family members were welcome to stop by the Property to visit Ms. King without invitation, and often did so. They celebrated many holidays together. Ms. King also had good relationships with her neighbours and friends in her social circle. She attended church every Sunday and participated in a weekly church program. She loved to host gatherings and potluck dinners at her home. She visited her neighbours for dinners and holidays. She bought gifts for their children. Her trusted friend and neighbour, Bill Diamond, held her Power of Attorney ("POA") since 2011. He also held the key to her Property in case of emergency.
- [12] In other words, at the time she met the defendant, Ms. King had an active and fulfilling life.
- [13] The defendant is 15 years younger than Ms. King. When he came into her life, he described himself as a self-employed "artist". He had little to no income and was living out of a vehicle.
- [14] The defendant immediately began to exert undue influence and control over Ms. King. He slowly took over all aspects of her life. Their relationship began as one of friendship, but not much time passed before Mr. Vimhel moved into the Property. By 2014, their relationship became romantic and he gradually took greater and greater control over Ms. King's social, legal and financial life. He also began to physically, verbally and mentally abuse her.
- [15] By the end of 2014, Ms. King was so afraid of the defendant, she felt physically unsafe and feared that he would injure her if she did not do as he wanted. Eventually, the abuse became so consistent and severe that Ms. King came to believe that the defendant would kill her if she did not do what he wanted.
- [16] The defendant used fear as tools to coerce and control Ms. King, and isolated her from her family, friends and neighbours.
- [17] Regarding Ms. King's family, the defendant's tactics included: frequently criticizing her family members; gradually cutting off her communication with them, including blocking their phone numbers; preventing Ms. King from writing emails to them; impersonating Ms. King and writing them cruel emails from her account, directing them not to contact her; preventing visits between them; misusing the court process to obtain an unwarranted protection order against her daughter; falsely reporting to RCMP that Ms. King's family

members were harassing her; and instructing counsel on her behalf to author letters to her children directing them not to contact her.

- [18] On one notable occasion in 2016, Owen happened to cross paths with his mother at a grocery store in North Vancouver. She was with Mr. Vimhel. Before he had a chance to speak with his mother, Mr. Vimhel intervened. He pushed Owen away and roughly grabbed Ms. King to pull her away from her son. He was yelling loudly, which attracted security guards, and ultimately police were called. Owen had done nothing wrong. This was one of the last times he saw his mother until her rescue in 2020.
- [19] Regarding her friends and neighbours, the defendant's isolation tactics included: frequently criticizing them; accompanying her when she left the house, seemingly to prevent her from interacting with others alone; installing security cameras in the Property; installing double-sided locks in the Property and locking her in; preventing her from having friends over or going to their homes; preventing her from attending church; creating controversies within the strata; attending strata meetings and behaving disruptively; levelling unfounded accusations about them; and engaging in bullying and other behaviour that ostracized Ms. King from her neighbours and friends.
- [20] Ms. King wanted to have contact with her family and friends, but she followed his instructions to not contact them because she was afraid that he would hurt her if she disobeyed. She stopped attending church and all social events. She stopped hosting potluck dinners. Her world had collapsed to revolve around one person: the defendant.
- [21] The defendant soon began to control Ms. King's financial life as well. He had her revoke the POA she had granted to her trusted friend, Mr. Diamond, and caused her to grant a new POA to him. From about 2014 to 2020, he frequently took money from her without informing her. He sometimes signed documents using her name and/or signature. He was secretive about what he was doing with her legal and financial affairs and deliberately concealed from her the steps that he was taking.
- [22] In 2017, Mr. Vimhel moved Ms. King from the Property and into a motel on King George Boulevard in Surrey. He told no one where they had gone.
- [23] Although Ms. King's children were confused and distraught over their mother's change in attitude, they never stopped trying to remain in her life and extricate her from the defendant's control. When their mother unexpectedly left the Property, Georgina hired a private investigator to find her.
- [24] When Ms. King was located in approximately November 2018, her children were horrified to learn that the motel room Ms. King shared with the defendant had no cooking facilities and the monthly rent was \$3,000. They lived there for about three years. During this time, the defendant would not allow Ms. King to leave the motel without him. He would not allow her to talk to anyone other than him. Ms. King was completely dependent on him for food and shelter. Although she was frightened of him and wanted to end the relationship, she felt

trapped and isolated. Her children went to police to obtain help for their mother on more than one occasion over the following years, but to no avail.

- [25] Ms. King tried to seek help from her family doctor during these years. On one occasion, she managed to sneak away from the motel when the defendant was sleeping and went to her doctor for help. When the defendant learned that her doctor had provided assistance to Ms. King after she indicated she wanted to leave the defendant, he initiated and advanced a complaint against this doctor to the College of Physicians and Surgeons, in Ms. King's name. He did this without Ms. King's knowledge or approval.
- [26] When social workers were involved, the defendant instructed legal counsel on Ms. King's behalf to author letters to social workers, assuring them that her relationship with the defendant was not of concern.
- [27] The defendant initiated other proceedings on Ms. King's behalf. In 2018, he filed a complaint with the Civil Resolution Tribunal (the "CRT") alleging that the strata owed Ms. King thousands of dollars for various infractions over the years. There was no merit to this complaint and the CRT dismissed it in July 2019. He also filed a petition for judicial review, as Ms. King's representative, in August 2019. Mr. Vimhel served the strata president with the petition and supporting materials personally, at his home, in the presence of the police. Enlisting the supervision of the police was completely unnecessary and alarming, but entirely consistent with his vitriolic behaviour directed toward all of Ms. King's family, friends and neighbours over the years.
- [28] As time went on, Ms. King's family and friends continued to try to help her, but Mr. Vimhel had successfully isolated her and assumed control over her legal and financial affairs.
- [29] In September 2019, under the direction and control of the defendant, Ms. King borrowed approximately \$200,000 from Capital Direct Lending Corp., mortgaging the Property in that amount. She did so because the defendant told her they needed funds for a "project". There is no evidence about the whereabouts of these funds. There is presently an outstanding foreclosure petition concerning this mortgage.
- [30] In 2017, to the surprise of her family, Ms. King sold the Parksville Property. The funds from the sale, approximately \$515,000, were placed in a bank account that she held jointly with the defendant. By 2020, the account was emptied.
- [31] In early 2020, during a time when Ms. King was living in complete isolation in the motel, the defendant told her he wanted to be registered on title as an owner of the Property. He did not explain why, nor did he explain the effects of joint tenancy. She only understood that this was something he wanted, so she complied.
- [32] Ms. King participated in the transfer of the Property, valued at nearly \$1.2 million, by executing a Form A freehold transfer on March 6, 2020 that named her and the defendant as joint tenants. The document provides that the consideration given by the defendant for his one-half interest in the Property was "\$1.00 and natural love and affection". The transfer was

registered on April 3, 2020. Ms. King participated in this transfer because of her continuing fear that Mr. Vimhel would hurt or kill her if she did not do as he wanted. She felt that she had no one to turn to for help.

- [33] On September 7, 2020, Georgina was able to free her mother from the defendant's control. She drove by the motel that day, as she did periodically, to check on her mother, and noticed there was a lot of construction underway on the motel. She learned from one of the workers that the motel had been sold and its residents were expected to leave. In that moment, she knew she had to act. She knew that if Mr. Vimhel had the opportunity to move her mother a second time, she might never find her again.
- [34] Georgina phoned her adult son--Ms. King's grandson--who came to the motel. The worker with whom she had been speaking called police to help them. Three RCMP cars responded and attended the motel. Georgina and her son knocked on the motel room door. Ms. King and the defendant both came to the door. When her grandson asked Ms. King to go for coffee, Mr. Vimhel became very angry and began aggressively trying to pull Ms. King back into the room. Police intervened and Ms. King was permitted to leave with her grandson. She was so hurried that she left her purse containing her wallet, car keys and keys to the Property behind. Her grandson took her to a safe location where Mr. Vimhel could not find her. Subsequent efforts to have the defendant return her purse, wallet and keys were unsuccessful.
- [35] After a few days, Ms. King and her family members went back to the Property. It was dilapidated, cluttered and messy: quite unlike how Ms. King used to keep it. Now age 84 and unable to care for herself and live on her own, Ms. King went to live with Georgina.
- [36] On September 14, 2020, Ms. King revoked the POA she had granted the defendant. On October 2, 2020, she appointed Georgina and Owen as her attorneys. They immediately began to assist Ms. King in obtaining legal counsel, and gathering information about the state of her financial affairs. The records they obtained show, to their horror, that all of Ms. King's accounts had been drained, including her investment account and the account that had held the sale proceeds for the Parksville Property. Since the defendant exhausted all of Ms. King's financial resources, she has been completely dependent on her children to support her since September 2020.
- [37] In March 2021, Ms. King was admitted to hospital in poor health. Still having capacity at that time, she swore an affidavit detailing much of the abuse I have outlined above. She soon moved to a care home on government assistance and her family continues to visit her regularly. Unfortunately, her illness has advanced to the point she no longer recognizes them.
- [38] Although initially a participant in these proceedings, the defendant has since disappeared. He remains on title as a joint tenant of the Property. He has made no financial contributions toward the Property. Capital Direct ultimately initiated a foreclosure proceeding, which has been resolved by way of a standstill agreement. Ms. King's children have incurred significant

expenses to deal with and repair the Property and the foreclosure proceedings. They reached the point in early 2024 where they had to rent the Property in order to cover some of the expenses.

[39] With these findings of fact, I turn now to the issues. The plaintiff raises three issues for my determination:

1. Does the defendant hold his interest in the Property on a resulting trust for Ms. King?
2. Further, or in the alternative, did the defendant exercise undue influence over Ms. King at the time of the transfer?
3. Is the plaintiff entitled to punitive damages?

[40] The answer to each of these questions is, quite simply, yes.

Resulting Trust Claim

[41] In *Pecore v. Pecore*, 2007 SCC 17, the Supreme Court of Canada held:

[20] A resulting trust arises when title to property is in one party's name, but that party, because he or she is a fiduciary or gave no value for the property, is under an obligation to return it to the original title owner: see D. W. M. Waters, M. R. Gillen and L. D. Smith, eds., *Waters' Law of Trusts in Canada* (3rd ed. 2005), at p. 362.

[42] Where a transferee has received property for no consideration, the law presumes that they hold that property in a resulting trust in favour of the transferor. This is because "equity presumes bargains, not gifts": *Pecore* at para. 24.

[43] In *Pavlovich v. Danilovic*, 2019 BCSC 153 (aff'd 2020 BCCA 36), Justice Iyer, as she then was, recently discussed the law concerning resulting trust claims. She held:

[40] A resulting trust is presumed to arise in circumstances where a person gratuitously transfers property to another: *McKendry v. McKendry*, 2017 BCCA 48 at para. 35; *Pecore v. Pecore*, 2007 SCC 17 at para. 24. Unless the transfer takes place in certain family relationships (see *Pecore* at paras. 28, 30-33, 36), the law presumes that the transferor intended to convey legal title to the property but retain the beneficial interest. If the presumption of resulting trust applies, it is the transferee who bears the onus of establishing that a gift was intended: *Modonese* at para. 136; *Pecore* at para. 24.

[41] When a property is purchased by one party but held in joint tenancy, there is a presumption that the transferor intended to retain the entire beneficial interest, including the right of survivorship, unless there is evidence to the contrary: see *McKendry* at para. 36; *Bergen v. Bergen*, 2013 BCCA 492 at para. 42; *Baryla v. Baryla*, 2019 BCCA 22 at para. 26-29.

[42] The presumption of resulting trust also applies to gratuitous transfers of real property. This is so despite the statutory presumption of indefeasible title in the *Land Title Act*, R.S.B.C. 1996, c. 250: *Fuller v. Harper*, 2010 BCCA 421 at para. 43 (sub nom *Fuller v. Fuller Estate*). In

Aujla v. Kaila, 2010 BCSC 1739 at paras. 32-37, Justice Harris concluded that if a transfer is gratuitous, the statutory presumption in s. 23(2) of the Land Title Act, that the party challenging the state of title has the burden of proof, can be discharged by the operation of the presumption of resulting trust: see also Modonese at para. 138-141; Zeligs Estate v. Janes, 2015 BCSC 7 at paras. 39-40; McKendry at para. 37.

- [44] In Pecore, the Court highlighted the importance of the resulting trust in situations, like here, where evidence regarding the transferor's intentions is unavailable or unpersuasive. At para. 23, the Court held, in part:

For the reasons discussed below, I think the long-standing common law presumptions continue to have a role to play in disputes over gratuitous transfers. The presumptions provide a guide for courts in resolving disputes over transfers where evidence as to the transferor's intent in making the transfer is unavailable or unpersuasive. This may be especially true when the transferor is deceased and thus is unable to tell the court his or her intention in effecting the transfer.

- [45] The transfer document signed by Ms. King provides that the consideration given by the defendant for his one-half interest in the Property was "\$1.00 and natural love and affection". "Natural love and affection" has been termed a formulaic phrase, one not determinative of whether value for a transfer was actually provided: Fleming v. Kwakseestahla, 2010 BCSC 1006 at para. 19; Pinsonneault v. Courtney, 2022 BCSC 120 at para. 168.
- [46] I find that Mr. Vimhel did not give value in exchange for receiving a joint interest in the Property. Similar to Iyer J.'s findings in Pavlovich, there is no evidence in the case at bar that the defendant assumed any obligations or undertook any responsibilities that would "transform this nominal consideration into valuable consideration": para. 43.
- [47] I am satisfied that the transaction was gratuitous and the presumption of resulting trust applies. Mr. Vimhel is, therefore, required to rebut the presumption by establishing that Ms. King intended to transfer to him all the rights of a joint owner. He has failed to do so. Accordingly, I find Mr. Vimhel has failed to meet the onus upon him and conclude that Mr. Vimhel has held his interest in the Property on a resulting trust since the time of the transfer.

Undue Influence Claim

- [48] In addition to finding that Mr. Vimhel holds his interest in the Property on a resulting trust for Ms. King, I also find that the plaintiff has established that the transfer of the Property was a result of the defendant's undue influence over her. Accordingly, the transfer should be set aside.
- [49] Ms. King currently lacks capacity, so she is no longer in a position to provide direct evidence as to her intention. She has, however, previously affirmed in her affidavit that she did not understand what it meant to transfer the Property into joint tenancy with the defendant at the time she did it. She only did what he asked out of fear for her safety. On the whole of the

evidence, there is simply no question that Ms. King did not transfer the Property into joint tenancy as a result of her own full, free and informed thought. As I will discuss next, the evidence overwhelmingly establishes that the defendant exerted undue influence over Ms. King and defrauded her of her sole ownership of the Property.

- [50] In *Davy v. Davy*, 2019 BCSC 1826, Justice Gomery summarized the legal framework for the assessment of claims of undue influence:
- [51] The essential legal framework for the assessment of claims of undue influence was established in *Allcard v. Skinner* (1887), 36 Ch. D. 145 (C.A.) and confirmed in *Geffen v. Goodman Estate*, [1991] 2 S.C.R. 353 [Goodman Estate]. This framework is regularly applied in British Columbia; *Turner v. Turner*, 2010 BCSC 49 [Turner] at paras. 48-61 and 145-157; *Modonese v. Delac Estate*, 2011 BCSC 82 [Modonese] at paras. 96-129; *Porter Estate v. Porter*, 2015 BCSC 2354 [Porter Estate] at paras. 36-133; *Cowper-Smith v. Morgan*, 2016 BCCA 200 [Cowper-Smith] at paras. 39-40 and 48-53; *Burkett v. Burkett Estate*, 2018 BCSC 320 [Burkett] at paras. 187-217. It was not disputed in argument.
- [52] Undue influence is an equitable doctrine to save people from being victimized by other people. A transaction induced by undue influence may be set aside. There are two classes of case. The first class arises where the party seeking to set aside the transaction proves that the defendant engaged in improper conduct that dominated the will of the victim. That is not the plaintiff's claim in this case.
- [53] The second class of case arises where the defendant and the supposed victim were in a relationship of dependency involving a potential for domination of the victim by the defendant. In these cases, if the transaction involved a gift or bequest, as opposed to a commercial transaction, undue influence is presumed and the burden lies on the defendant to show that the victim entered into the transaction as a result of his or her own full, free and informed thought. In the case of a commercial transaction, there is a further requirement: the plaintiff must also show that the contract in question worked unfairness by conferring undue disadvantage on the victim or undue advantage on the defendant.
- [51] Vulnerability and dependency are the hallmarks of undue influence: *McMaster Estate v. McMaster*, 2021 BCSC 1100 at para. 48.
- [52] The plaintiff's claim to set aside the transaction in this case relies on the first class of cases. She submits that there is an overwhelming body of evidence that establishes that Mr. Vimhel engaged in improper conduct that dominated her will. As an alternative position, she argues that the evidence also establishes that the parties were in a relationship with the potential for domination, thereby triggering a presumption of undue influence which the defendant has failed to rebut.
- [53] I agree with the plaintiff's primary position. The evidence adduced in this trial overwhelmingly establishes that the defendant engaged in improper conduct that dominated the will of his victim, Ms. King. Over the period of seven years leading to the

transaction in issue, Mr. Vimhel gradually isolated his vulnerable victim from her family and friends to the point of estrangement with them all. He moved her from her home and into a motel to keep her isolated and under his sole control. She was dependent on him for her food and shelter. He physically, emotionally and psychologically abused her, using her fear of physical harm and even death at his hand, to dominate her will.

- [54] While the transfer was effected by a lawyer, it was the defendant who selected the lawyer and attended at the lawyer's office for the meeting during which Ms. King executed the transfer. She did not have the benefit of truly independent legal advice. Ms. King did not know what she was transferring, what it meant or why she was doing it. All she knew, after seven years of his domination, control, abuse and intimidation, was that Mr. Vimhel wanted her to conduct this transaction. She feared him, so she did what he asked her to do. In short, Ms. King was vulnerable. She was victimized by a predator. The transfer was the product of undue influence and must be set aside.

Punitive Damages Claim

- [55] The plaintiff seeks punitive damages in the amount of \$50,000. In *Schwab Estate v Warriner*, 2023 BCSC 220, Justice Winteringham, as she then was, summarized the law in this area as follows:
- [491] Punitive damages may be awarded when "the defendant's misconduct is so malicious, oppressive and high-handed that it offends the court's sense of decency": *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, 1995 CanLII 59 at para. 196. The award is exceptional, and limited to where there is "misconduct that represents a marked departure from ordinary standards of decent behaviour": *Whiten v. Pilot Insurance Co.*, 2002 SCC 18 at para. 36. Punitive damages are not compensatory in nature. Rather, they are punitive and intended "to give a defendant his or her just desert (retribution), to deter the defendant and others from similar misconduct in the future (deterrence), and to mark the community's collective condemnation (denunciation) of what has happened": *Whiten* at para. 94. Thus, punitive damages should only be awarded when "the combined award of general and aggravated damages would be insufficient to achieve the goal of punishment and deterrence": *Hill* at para. 196.
- [492] Punitive damages, if awarded, should be assessed to be reasonably proportionate to "such factors as the harm caused, the degree of the misconduct, the relative vulnerability of the plaintiff and any advantage or profit gained by the defendant, having regard to any other fines or penalties suffered by the defendant for the misconduct in question": *Whiten* at para. 94. The amount should be no greater than needed to rationally accomplish their purpose: *Whiten* at para. 94.
- [56] I find that Mr. Vimhel's conduct is such that an award of punitive damages is appropriate.

- [57] This was a predatory relationship of an extreme nature. Mr. Vimhel systematically manipulated his vulnerable victim over a period of several years for the purpose of financial gain.
- [58] Mr. Vimhel gradually isolated Ms. King from her family, friends and neighbours to the point of alienation. He assumed control over her social interactions by preventing visits with her family and friends, blocking their telephone numbers, obtaining an unwarranted protection order against her daughter and refusing to allow her to visit her son in Quebec. He cut the plaintiff off from her friends and neighbours. He accompanied her on every outing and did not allow her to visit with friends or family in his absence. He would not allow Ms. King to attend church. He authored cruel and contentious emails in her name, directing her children not to contact her, creating controversies in the strata complex, leveling accusations and generally ostracizing the plaintiff from her neighbours.
- [59] Mr. Vimhel also installed a double-sided lock and security cameras at the Property, and he would lock her in when he left without her. Eventually, Mr. Vimhel moved her from her home to a motel, without notice to her family and friends. This motel room did not have cooking facilities and Ms. King became completely dependant upon him.
- [60] Mr. Vimhel's conduct also included taking complete control over Ms. King's financial affairs. He caused her to revoke the POA she had granted to her friend and neighbour, and caused her to instead grant a new POA to him. Mr. Vimhel instructed counsel on her behalf to author letters to her children directing them not to contact her. He also instructed counsel on her behalf to author letters to social workers assuring them that her relationship with him was not of concern. When Ms. King's doctor sought to help her, Mr. Vimhel initiated a complaint that ensured he would stay away. Mr. Vimhel also engaged in a pattern of accusing third parties of defrauding, harming, or otherwise prejudicing Ms. King's interests in an effort to keep her isolated.
- [61] Mr. Vimhel concocted poisonous narratives about her family, friends, and even general acquaintances with the goal of completely isolating Ms. King.
- [62] In short, over a period of several years, Mr. Vimhel used deception, manipulation, isolation, fraud, threats of physical harm and actual physical and psychological harm to gain complete control over Ms. King and all of her financial affairs. Mr. Vimhel's misconduct toward this highly vulnerable victim was egregious and the negative impact upon her--physically, mentally and financially--was profound.
- [63] This predator completely transformed a happy, vibrant and financially secure woman, who had many fulfilling years ahead of her, into a frightened, lonely, and powerless shell of her former self. He not only robbed her of her property and her considerable savings: he robbed her of her dignity, the support of her family and friends, and the enjoyment of what has turned out to be the last healthy years of her life. Mr. Vimhel's misconduct was so malicious, high-handed and offensive, the court must denounce it in the strongest terms.

[64] In all of these circumstances, I conclude that a punitive damages award is appropriate in the amount of \$50,000. Had the plaintiff's position not been so modest, the circumstances of this case would have justified a much higher award.

Disposition

[65] It is for all of these reasons that I made the declarations and granted the orders sought by the plaintiff, the effect of which was to undo the transaction granting the defendant an interest in the Property:

1. The plaintiff is the sole beneficial owner of the property located at #2 - 348 Bewicke Avenue, North Vancouver, BC and legally described as:

PID 015-737-209

Strata Lot 3 District Lot 547 Strata Plan VR2594

Together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1

(the "Property").

2. The defendant holds his legal interest in the Property in trust for the plaintiff as beneficiary.
3. Legal title to the Property shall be transferred to the plaintiff as sole registered owner.
4. Upon receiving a certified copy of this Order, the Registrar of Land Titles at the New Westminster Land Title Office shall effect the registration of the plaintiff as the sole registered owner of the Property.
5. The defendant's counterclaim is dismissed.
6. The registrar of the Court is directed to issue a certificate certifying that the defendant's counterclaim has been dismissed, pursuant to s. 254 of the Land Title Act, R.S.B.C. 1996, c. 250.
7. The defendant shall pay to the plaintiff punitive damages in the amount of \$50,000.
8. The plaintiff is awarded costs of this proceeding, including costs of this application, at Scale B.
9. Interest pursuant to the Court Order Interest Act, R.S.B.C. 1996, c. 79.

[66] All that remains is to thank counsel for her excellent work in this most difficult case.

"S.A. Donegan J."

DONEGAN J.

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