

CANADA / JUDGMENT

Vigen v. Murley

2025 BCSC 365

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Supreme Court of British Columbia

DECIDED

4 March 2025

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2025 BCSC 365 Vigen v. Murley

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Vigen v. Murley,

2025 BCSC 365

Date: 20250304

Docket: E5025

Registry: Courtenay

Between:

Cheryl Maureen Vigen

Claimant

And

David George Murley

Respondent

Before: The Honourable Justice Majawa

Reasons for Judgment

The Claimant, appearing in person:

C. Vigen

The Respondent, appearing in person:

D. Murley

Place and Date of Trial:

Courtenay, B.C.

December 9-13, 2024

Place and Date of Judgment:

Courtenay, B.C.

March 4, 2025

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OVERVIEW

- [1] The sole matter at issue in this proceeding is whether the claimant, Cheryl Vigen, and the respondent, David Murley, were in a marriage-like relationship, and consequently, whether certain real property located at 4024 Island Highway S., Royston, BC (the "Royston Property") that is registered solely in the respondent's name should be divided equally pursuant to the Family Law Act, S.B.C. 2011, c. 25 [FLA]. Both parties confirmed that they are content with all other property currently in their own names remaining as such and neither seeks division of those assets or of any of their retirement savings. Ms. Vigen originally sought an order for spousal support in her notice of family claim; however, that was abandoned and she no longer sought such relief when the trial commenced.

- [2] For the reasons that follow I have determined that the parties were in a marriage like relationship for nearly 25 years, and consequently, Ms. Vigen is entitled to an equal interest in the equity in the Royston Property less Mr. Murley's excluded property claim.

BACKGROUND

- [3] Ms. Vigen and Mr. Murley were 68 and 60 years of age, respectively, at the date of trial. They first met in or around 1998. Ms. Vigen has held a number of jobs during her life including as a legal secretary in the 1990s and most recently as a health care aide from approximately 2009 to 2020, when she retired. Mr. Murley's employment history is not entirely clear to me. It appears that he has worked as a mechanic for a period of time. He also told the Court that he has been involved in selling illegal narcotics at various times throughout his life. In or around 2006, he began a lawn sprinkler company, and as I understand it, he continues to operate that business presently.
- [4] The parties first resided together in Surrey, BC in 1999. The parties agree that they began to live under the same roof around this time, but not surprisingly given the time that has passed, neither could be specific about the date. The best I can discern on the evidence before me is that they began to live together in or around September 1, 1999. I come to this conclusion because I accept Ms. Vigen's evidence that the parties selected April 1 as their anniversary date and I also accept her evidence that they began to live together approximately four months after they began dating.
- [5] In or around the year 2000, the parties moved to Vancouver Island. At that time, Mr. Murley owned the Royston Property, having purchased it in 1995 for \$90,000. However, the Royston Property was rented to a tenant when the parties first came to Vancouver Island and so they rented a residence for a short period of time before they moved into the Royston Property in 2001 where they lived together until January 31, 2024. While the parties dispute the nature of their living arrangement, there is no dispute that they lived under the same roof for approximately 25 years.
- [6] The nature of the parties' relationship will be discussed in further detail later in these Reasons in relation to the factors I have considered in determining that a marriage-like relationship existed. For present purposes it is sufficient to say that the parties' relationship during the nearly 25 years they resided together was volatile. The police were called on approximately five occasions. It is apparent that Mr. Murley was verbally abusive to Ms. Vigen throughout the course of their relationship, both in private and in front of others. At times the abuse was physical. Mr. Murley told Ms. Vigen that the relationship was over on numerous occasions, and then the next day they would be back together and he would be referring to her with terms of endearment. Other than a short period in 2008 when Ms. Vigen moved to live with a friend in Kelowna for a few months following an incident of family violence, the parties generally resided together at the Royston Property for that nearly 25 years. The relationship ended on January 31, 2024, when Mr. Murley was ordered to leave the Royston Property by the police following an altercation with Ms. Vigen for which

he was charged with assault.

THE RELEVANT LAW

- [7] Justice Brongers recently set out the law in respect of the concept of a marriage-like relationship in *Bellrose v. Reda*, 2023 BCSC 748 at paras. 47-49. I cannot improve upon his summary of the law and adopt it in its entirety:

III. The Law: Marriage-Like Spousal Relationships Under the Act

- [47] By operation of ss. 1 and 3 of the Act, a person is deemed to be a "spouse" for the purposes of the Act either if they are in a formal marriage or if they have lived in a marriage-like relationship under certain conditions, as follows:

1. In this Act:

"spouse" means a person who is a spouse within the meaning of section 3 [spouses and relationships between spouses];

3(1) A person is a spouse for the purposes of this Act if the person

- (a) is married to another person, or
- (b) has lived with another person in a marriage-like relationship, and
- (i) has done so for a continuous period of at least 2 years, or
- (ii) except in Parts 5 [Property Division] and 6 [Pension Division], has a child with the other person.

3(3) A relationship between spouses begins on the earlier of the following:

- (a) the date on which they began to live together in a marriage-like relationship;
- (b) the date of their marriage.

- [48] The concept of a "marriage-like relationship" has been the subject of considerable jurisprudential consideration. Many of these authorities were brought to my attention by the parties. I found the most helpful one to be the relatively recent decision of Justice E. McDonald in *Armstrong v. Scholz*, 2022 BCSC 863. Paragraphs 29 to 35 of her reasons contain a thorough review of several of the leading cases that have discussed the principles and approach to be applied when deciding whether two persons have been in a marriage-like relationship. These principles can be summarized as follows:

- a) The burden is on the claimant to prove that they meet the definition of "spouse". The standard is on a balance of probabilities (*Voth v. Martin*, 2019 BCSC 834 at para. 8, citing *F.H. v. McDougall*, 2008 SCC 53 at para. 49).

- b) Section 3 of the Act imposes both a two-year continuous "cohabitation requirement", and a marriage-like "relationship requirement". The cohabitation requirement is approached flexibly and may be satisfied even if the parties may have lived for extended periods at different locations (*Hu v. Lee*, 2022 BCSC 56 at paras. 41-42; *Thompson v. Floyd*, 2001 BCCA 78 at paras. 22-36).
 - c) The determination of whether a relationship was marriage-like requires a holistic approach in which all of the relevant factors are considered and weighed, but none are treated as being determinative of the question (*Austin v. Goerz*, 2007 BCCA 586 at para. 62).
 - d) While a "checklist" approach should not be employed, it can be helpful to consider the presence or absence of commonly accepted indicators of the sorts of behaviour that society, at a given point in time, associates with a marital relationship (*Weber v. Leclerc*, 2015 BCCA 492 at para. 25).
 - e) Such indicators of a marriage-like relationship may include: (1) shared shelter; (2) sexual and personal behaviour; (3) services; (4) social activities; (5) economic support and children; and (6) societal perception of the couple (*M. v. H.*, 1999 CanLII 686 (S.C.C.), [1999] 2 S.C.R. 3 at para. 59; citing *Molodowich v. Penttinen* (1980), 1980 CanLII 1537 (O.N.S.C.) at para. 16 - these are sometimes referred to as the "Molodowich factors").
 - f) Evidence of the subjective intentions of the parties is important to the determination of whether the relationship was marriage-like. However, this evidence must be tested against objective evidence of their lifestyle and interactions, which will provide direct guidance on the nature of the relationship (*Dey v. Blackett*, 2018 BCSC 244 at para. 195).
 - g) A person is either a "spouse" or is not. There is no middle ground. People may live together interdependently and yet fail to establish that they developed the kind of psychological and emotional union associated with marriage (*C.F.M. v. G.L.M.*, 2018 BCSC 815 at para. 10).
 - h) A marriage-like relationship is akin to a marriage without the formality of a marriage. However, it must be borne in mind that people treat their marriages differently and have different conceptions of what marriage entails (*Mother 1 v. Solus Trust Company*, 2019 BCSC 200 at para. 143).
- [49] Also worth mentioning are two recent "marriage-like relationship" decisions issued last year by our Court of Appeal, albeit in the context of estate litigation: *Coad v. Lariviere*, 2022 BCCA 222 at para. 127; and *Jones v. Davidson*, 2022 BCCA 31 at paras. 21-24. They effectively confirm that there is no specific definition of whether marriage-like relationships exist. In particular, such relationships are not simply defined by financial dependence, sexual relationships, or the mingling of property and finances. In sum, their existence ought not to be determined through a formulaic "checklist" approach, but rather through a contextual and holistic examination of all of the relevant aspects of the parties' relationship.

CREDIBILITY AND RELIABILITY OF WITNESSES

- [8] As Justice Brongers stated in *Bellrose*, the applicable principles for assessing a witness's credibility are well-known and I too will not repeat them here (see *Armstrong v. Scholz*, 2022 BCSC 863 at paras. 37-38). I have assessed the witness's credibility in accordance with these well-known principles.
- [9] The most significant witnesses were the claimant and the respondent. Ms. Vigen's credibility was not successfully challenged. Ms. Vigen's evidence was inherently believable and she did not contradict herself between cross examination and her evidence in chief. Ms. Vigen also presented as a reliable witness. Understandably, there were a number of occasions upon which Ms. Vigen was unable to recall specific details regarding the nearly 25-year relationship that the parties were in. However, in my view, this is understandable given the length of time that had passed, and is not inconsistent with her general reliability.
- [10] On the other hand, Mr. Murley was neither credible nor reliable. Much of Mr. Murley's evidence was simply inherently unbelievable and internally inconsistent. Given the lack of documentary evidence in this case, the credibility of the parties is a key factor in my determination of this matter. Consequently, I will discuss Mr. Murley's credibility in some detail.
- [11] Mr. Murley provided evidence that his relationship with Ms. Vigen was one of a landlord and tenant only. It is simply unbelievable that Mr. Murley and Ms. Vigen were merely in a tenant-landlord relationship. Not only is this difficult to reconcile with the 25 years they lived together, it is impossible to reconcile with many of the objective facts of this case, including that Mr. Murley admittedly purchased a rental property on her behalf, from which they were to share the income, with no terms of payback and no agreement in writing. Similarly, it makes little sense for a landlord to provide free rent while his tenant attends schooling as Mr. Murley described. In any event, there is no reliable evidence that Ms. Vigen ever paid rent to Mr. Murley. During his cross-examination, for the first time, Mr. Murley alleged that he provided Ms. Vigen with receipts for the rent she paid but that they were destroyed in the rain. I do not accept this evidence.
- [12] Mr. Murley acknowledges that the police attended the Royston Property on a number of occasions due to altercations between the two of them. He says that following these altercations he would leave for three or four days or slightly longer but then he would return. He testified that after he would return there was no problem between the two of them as long as "she continued to pay her rent." If Ms. Vigen was simply a tenant, why would Mr. Murley leave the property following these altercations and then return without asking or demanding that Ms. Vigen leave? When asked why he did not involve the residential tenancy branch, he said it was because he "didn't like paperwork" and thought that she would just leave on her own. This behaviour and his explanation are not consistent with Mr. Murley's allegation that the parties were merely in a landlord-tenant relationship.

- [13] Similarly, it makes little sense that Mr. Murley would permit someone who was merely a tenant to remain at the Royston Property following an incident in which he describes Ms. Vigen as having broken almost every window at the residence, all the windows in his automobile, and nearly destroying his motorcycle. He testified that he left the property following this altercation and when he returned a few days later he just hoped that things would be alright. While I do not accept that this incident occurred as Mr. Murley described it, if it did, it makes little sense that Mr. Murley would permit someone who was merely a tenant to remain at the property in such circumstances.
- [14] Ms. Vigen presented evidence of Mr. Murley's passport application which was prepared in late 2023. Parts of that application were completed by Ms. Vigen but Mr. Murley acknowledged that he signed the application in the relevant parts. In the emergency contact information section, Ms. Vigen is referenced as being the common law partner of Mr. Murley. And just below this, Mr. Murley has affixed his signature. Mr. Murley had testified earlier that he would never have signed anything in which Ms. Vigen was referenced as being his common-law partner. When asked about this and his signature on the passport application, Mr. Murley said that he often signed things that he did not read.
- [15] The evidence is clear that Mr. Murley was a beneficiary to Ms. Vigen's extended health benefits for a period of time during which Ms. Vigen was employed as a health care aide. Ms. Vigen also testified that he was the beneficiary to her RRSP. While Mr. Murley was reticent to acknowledge having used the extended health benefits, he eventually acknowledged that he used those benefits to obtain a pair of glasses on at least one occasion. He testified that he did not know how he came to be on Ms. Vigen's extended health care and that he just "figured that a roommate could be a beneficiary". This is simply unbelievable.
- [16] Internally inconsistent with his testimony that he and Ms. Vigen were landlord and tenant only, Mr. Murley also provided evidence at trial that he and Ms. Vigen were friends who had tried to date but were unable to make it work. He adamantly denied that they portrayed themselves as a couple to the outside world or amongst themselves. When confronted with a greeting card that he gave to Ms. Vigen in 2023 in which he hand wrote "Happy anniversary. 23 years strong. Love you. Dave", Mr. Murley testified that the card was a joke, and then, for the first time, testified that they falsely portrayed themselves as being in a relationship in order to "fool" their neighbours. It remains unexplained how giving a greeting card to Ms. Vigen would assist with the ruse that he says they were trying to perpetrate upon their neighbours.
- [17] He further tried to explain the anniversary card as being a joke. He stated that the reference to "23 years strong" referred to his allegation that he and Ms. Vigen were involved in a long-term marijuana grow operation and that reference was to their "business relationship". On numerous occasions throughout his testimony, Mr. Murley stated that Ms. Vigen was the head of a marijuana grow operation that operated in the Royston Property and at the beach house they rented for a short period of time when they first moved to Vancouver Island. He testified that he was Ms. Vigen's employee. At one point, he explained that the reason they

remained living together despite the volatility was because of this business relationship.

- [18] Mr. Murley and a number of witnesses called on his behalf testified to this alleged grow operation. The evidence in this respect was inconsistent, and at many times, inherently unbelievable. I do not accept the testimony of these witnesses either. For example, Guy Peltomaa testified that he saw a marijuana grow operation at the Royston Property's living room, bedroom, garage, and front yard. This is inconsistent with Mr. Murley's own testimony that Ms. Vigen was growing marijuana only in her bedroom and in the garage. Mr. Peltomaa testified that he last saw a grow operation in the Royston Property's garage just before he moved to Princeton in or around 2018.
- [19] Glenn Lawson testified that he was certain that he had seen evidence of a marijuana grow operation after 2013 although he was unable to provide specific details. This is inconsistent with Mr. Murley's own testimony that they had definitely stopped growing marijuana by 2011 or 2012 at the latest. Mr. Murley had likely chosen 2011 or 2012 as the date they stopped growing marijuana because that coincides with the time during which Ms. Vigen obtained more than full-time employment as a health care aide and he realized that those hours would have been incompatible with running a grow operation. Moreover, Mr. Murley's explanation that the reference in the greeting card was to a 23-year long marijuana grow operation is inconsistent with his own testimony that the grow operation activities stopped in 2001 or 2012.
- [20] Ms. Vigen adamantly denies that a marijuana grow operation was being operated from the Royston Property or anywhere else. Laura White testified on behalf of Ms. Vigen. Her evidence was not successfully challenged on cross-examination. Ms. White made reasonable concessions during her testimony that would not necessarily help Ms. Vigen. For example, she acknowledged that she did not directly hear Mr. Murley discuss the amalgamation of the parties last names as a means of acknowledging their relationship. I generally found Ms. White to be a credible and reliable witness. She visited the Royston Property on a number of occasions over the years and had the opportunity to view the inside of the residence thoroughly. She did not witness any signs of a marijuana grow operation.
- [21] I find Mr. Murley's allegation in respect of a marijuana grow operation to be completely unfounded on the evidence before me. I find it to be a fabrication made by Mr. Murley in a misguided attempt to explain why the living arrangement persisted for as long as it did and to mislead the Court as to the nature of the parties' relationship. Many of Mr. Murley's witnesses assisted in his attempt to mislead the Court in this manner and I give their evidence very little weight.
- [22] Given my significant concerns in respect to Mr. Murley's credibility, I prefer the evidence of Ms. Vigen where their evidence conflicts.

ANALYSIS OF THE PARTIES' RELATIONSHIP

[23] Given the length of the relationship, there was surprisingly little documentary evidence adduced by the parties to address the relevant factors. This is likely due in part to the fact that both parties were self-represented at trial. Nonetheless, I am satisfied that the evidence provided is sufficient to decide the relevant matters. Below, I have set out the analysis of the legal characterization of the parties' relationship by reference to what are often referred to as the Molodowich factors (from *Moldowich v. Penttinen* (1980), 1980 CanLII 1537 (O.N.S.C.)). I do this for the sake of convenience. I am cognizant that my assessment must be made by a holistic review of all of the relevant circumstances, and not simply by reviewing a checklist of factors.

Shelter, Sexual Relations, and Personal Behaviour

- [24] There is no dispute that the parties lived under the same roof for nearly 25 years. They moved into an apartment together in Surrey in 1999 and continued to live under the same roof at the Royston Property until 2024. I do not accept Mr. Murley's testimony that they moved in together as part of a business relationship related to the alleged marijuana grow operation. Rather, I accept Ms. Vigen's testimony that they moved in together approximately four months after they began dating. Mr. Murley acknowledges that the relationship began as a romantic one. At that time, Ms. Vigen was the only one named on the lease. She would pay the rent of the Surrey apartment and Mr. Murley took care of her dogs.
- [25] The parties disagree on whether or not they shared a bed. Mr. Murley denies that they ever shared a bedroom. Ms. Vigen says that they shared a bed until she started working shiftwork in or around 2009 at which time they began sleeping in separate rooms to accommodate her shiftwork and his disruptive sleeping habits. Although there was a tenant on a different part of the Royston Property land, no one else shared the residence with the parties.
- [26] Ms. Vigen says that she and Mr. Murley had sexual relations on a regular basis even after they started sleeping in separate bedrooms in or around 2009. Mr. Murley acknowledges that the parties had sexual relations but says that it was much less frequent and that he would only have sex with Ms. Vigen if she came into his bedroom seeking such relations. I prefer Ms. Vigen's evidence in this respect.
- [27] In the nearly 25 years that Mr. Murley and Ms. Vigen lived under the same roof, no one witnessed either of them date anyone else or heard of them dating anyone else. Mr. Murley acknowledged that he did not date anyone else but stated that he had sexual relations with sex trade workers on two occasions during those 25 years. Whether or not this is true, I have no trouble in concluding that Mr. Murley and Ms. Vigen generally maintained an attitude of fidelity to each other during the course of the relationship. In any event, whether or not Mr. Murley was faithful to an attitude of fidelity is not determinative of whether or not the parties were in a marriage-like relationship.

- [28] It appears that Mr. Murley and Ms. Vigen often ate meals together. I do not accept Mr. Murley's testimony that they only ate one meal a week together. One of the witnesses called by Mr. Murley testified that when he visited, all of them ate together and Ms. Vigen would prepare the meals. Ms. White testified similarly.
- [29] Although Mr. Murley professed that he and Ms. Vigen were in a landlord-tenant relationship, or possibly a business relationship only, he also said they were friends, that they dated, and that they tried to have a relationship. He acknowledges to having expressed feelings of endearment to her on numerous occasions including by referring to her with terms of endearment and saying words to the effect of "love you babe". In or around 2020, Mr. Murley bought a ring for Ms. Vigen which he told her was a "fiancé in training" ring. The parties exchanged gifts on special occasions such as Christmas and birthdays. They exchanged cards on their anniversary which they determined to be April 1. He provided no explanation as to how any of this behaviour would be consistent with a business or landlord-tenant only relationship.
- [30] The relationship between the parties was clearly volatile and required the involvement of police on a number of occasions. It is clear that the two argued frequently. The volatility of the relationship was commented on by almost all of the witnesses called by the parties. While he maintained that the arguments were all Ms. Vigen's fault, when pressed, Mr. Lawson acknowledged that the arguments he observed were about personal things and not about the things that a landlord and tenant would normally fight about. Other witnesses testified that the type of relationship that the parties had was not the kind of relationship that they would want because of the amount of hostility. It seems to me that these witnesses were of the view that in order for the parties to be in a marriage-like relationship, it must have been a healthy and good one. However, that is not the case. A marriage-like relationship, just like a formal marriage, can be good, bad, or somewhere in between. But the presence of hostility and volatility, in and of itself, does not detract from its characterization as a marriage-like relationship.

Services and Support

- [31] I accept Ms. Vigen's evidence that the parties shared shopping duties, that she did most of the cleaning, and that she prepared many of the meals while Mr. Murley would routinely do the barbecuing. In essence, the parties shared the domestic services and household maintenance chores.
- [32] As discussed earlier, Mr. Murley was on Ms. Vigen's extended health benefits for a long period of time. Mr. Murley did not have such benefits from his employment or income earning endeavours. Neither of the parties have chronic health issues or take medications regularly, and therefore, there is little evidence of how they supported each other with respect to medical issues. There are a couple of occasions during which Mr. Murley was injured and Ms. Vigen assisted him by taking him to the hospital. On another occasion, Mr. Murley slipped and broke his leg while attempting to perform renovations on the Royston

Property. Although Mr. Murley did not want Ms. Vigen to take him to the hospital and had his friend Mr. Lawson take him, Ms. Vigen was the one who took him back-and-forth to Campbell River in order to see specialists for follow-up appointments and she was the one who provided extra care for him while he was on crutches for two months afterwards. Mr. Murley provided Ms. Vigen with some support when her brother died by suicide in 2018. These factors militate in favour of a marriage-like relationship.

Social Engagement and Societal View

[33] There was little evidence that the parties regularly engaged in social activities as a couple with others. This can perhaps be explained by Ms. Vigen's view that Mr. Murley's friends were "unsavory". Mr. Murley admitted that many of his friends were as he described "shady" and some were involved in the "drug business". The lack of social engagement as a couple may also be explained by the rather cruel approach that Mr. Murley took by telling Ms. Vigen that she was an embarrassment to him and did not want her around his friends or family. Nonetheless, there was some evidence that when Mr. Murley's friends came to visit, Ms. Vigen and Mr. Murley would entertain them together by preparing meals. The same would occur when Ms. White would come to visit. There is no dispute that the parties attended milestone events together such as funerals and many weddings since 2009.

[34] It appears that society viewed them as a couple, despite the evidence provided by the witnesses called by Mr. Murley. Perhaps most telling is Mr. Murley's mother's published obituary prepared in December 2023 by Mr. Murley's father, George Murley ("Mr. Murley Senior"). In that obituary, Mr. Murley Senior wrote in reference to his late wife that:

She is survived by her loving husband George of 62 years; sons Craig (Shelley), David (Cheryl); daughter Susan (Gord) .

[Emphasis added.]

[35] In his testimony, Mr. Murley Senior explained that the names next to his children's names in parentheses referred to their partners. He said that he put the claimant's name, Cheryl, next to the respondent's name, David, because everyone else had their partner listed and he assumed that she was his partner. The respondent was aware of the obituary at the time it was published and the connotation of him and Ms. Vigen being partners, yet he took no steps to change it or correct his father's assumption.

[36] Mr. Murley Senior's assumption is consistent with his testimony that he and his wife would buy gifts for both Ms. Vigen and Mr. Murley for Christmas and that he had not seen either of them date anyone else since they began living together. He was aware that they had lived together since coming to Vancouver Island in 2001. He testified that he never heard his son and Ms. Vigen referred to as being landlord and tenant. At the same time, Mr. Murley Senior was reluctant to acknowledge that he now viewed Ms. Vigen and Mr. Murley as having been in a relationship or having knowledge as to why Ms. Vigen and Mr. Murley lived together for nearly 25 years. Ultimately, Mr. Murley Senior said he did not know how he would refer to

Mr. Murley and Ms. Vigen's relationship. Given Mr. Murley Senior's candid testimony with respect to the preparation of the obituary and the provision of gifts, I suspect that Mr. Murley Senior was simply reluctant to provide evidence that would not be in his son's interest in this matter. However, unlike some of the other witnesses called by Mr. Murley, his father was not willing to go so far as to perpetuate falsehoods about the nature of the relationship or the existence of a marijuana grow operation.

- [37] Similarly, in 2019, Ms. Vigen's brother's obituary referred to Mr. Murley in the same manner as in the above-noted obituary: i.e., that Mr. Murley was Ms. Vigen's partner in the same manner as other relatives of the deceased. While Mr. Murley did not have a hand in creating this document, he did not take any steps to protest the representation of them as a couple in that published document.
- [38] Ms. White testified that she viewed the parties as being in a relationship. She viewed them sharing a bedroom and she provided them with joint greeting cards for occasions like Christmas. She never heard them referred to as landlord and tenant and she heard them plan for retirement and discuss marriage.
- [39] Ms. Vigen called Peter and Joanne Paulson as witnesses. Contrary to what they told Ms. Vigen before trial, both of them were very reluctant to say that they viewed Ms. Vigen and Mr. Murley as being in a relationship when they gave their evidence at trial. Mr. Paulson said that he was not in a position to make a call regarding whether or not they were a couple. He said he never saw them hold hands or kiss. He did hear Mr. Murley speak in a derogatory manner in respect of Ms. Vigen but he never heard them referred to as landlord and tenant. In any event, Mr. Paulson's observations are very limited. On his evidence he visited the Royston Property once or twice a year since approximately 2009.
- [40] Joanne Paulson has similarly had little opportunity to observe the parties; she has visited the Royston Property 4 to 5 times in the last 18 years or so. Ms. Paulson was very reluctant to comment on her view of the nature of the parties' relationship. She was aware of verbal abuse and derogatory comments made by Mr. Murley towards Ms. Vigen. It appears that Ms. Paulson was unwilling to come to a conclusion about the nature of the parties' relationship unless she had been specifically told that they were in a relationship or if they wore wedding rings. Ultimately, when pressed, she said that they "probably" did look like a couple.
- [41] Mr. Peltomaa testified that he did not think that Ms. Vigen was Mr. Murley's girlfriend and that he believed the relationship was a business one related to the marijuana grow operation. I have already discussed why I reject this evidence. He testified that he never saw them kiss or hold hands. However, this in and of itself does not mean that the parties were not in a marriage-like relationship. He initially testified that Mr. Murley did not have any other girlfriends, then he changed his testimony to say that he observed Mr. Murley date other people, and finally he acknowledged that he was guessing and did not know. Mr. Peltomaa admitted that he still owed money to Mr. Murley at the time of trial although the amount owed is not clear. Mr. Peltomaa's testimony is tainted by his willingness to

perpetuate the marijuana grow operation story, and his obvious desire to assist his friend by providing testimony that would be helpful, even if not true.

- [42] As mentioned earlier, Mr. Lawson testified that the parties had a volatile relationship and although he believed they were landlord and tenant only, when pressed he said that they would fight about personal things that were not usually the subject of arguments between a landlord and a tenant. Mr. Lawson testified that he had knowledge of other girlfriends that Mr. Murley had but when pressed on the details, it became clear that these other girlfriends predated Ms. Vigen and Mr. Murley's relationship. Mr. Lawson blamed the volatility of the relationship entirely on Ms. Vigen. He testified that he came to the conclusion that the parties were not a couple because of the amount of hostility between them. He stated he did not understand why "she would stay and stick around" in such circumstances.
- [43] Miles Peltomaa ("Miles") also testified on behalf of Mr. Murley. Similar to Mr. Lawson, Miles also blamed the volatility of the relationship entirely on Ms. Vigen. He said he never observed Mr. Murley yell at or mistreat Ms. Vigen in any way. This is entirely inconsistent with the evidence of many other witnesses and Mr. Murley's own acknowledgement. During cross-examination, it became evident that Miles was of the view that the parties could not have been in a marriage like relationship if they did not share the same bedroom, which the parties admitted they did not do since 2009. However, as is clear in the case law, sharing the same bedroom is not a prerequisite to finding of a marriage-like relationship.

Financial Arrangements and Future Plans

- [44] The parties did not share joint bank accounts but they shared expenses. After they moved to the Royston Property, Ms. Vigen generally paid for the groceries, utilities, and the Telus landline. Mr. Murley paid for the Hydro, gas, and water and garbage. Ms. Vigen would often pay for Mr. Murley's bills on her credit card because she was collecting points and also because he would sometimes be late in paying his bills. It was only approximately three years before trial that Mr. Murley got his own credit card and began paying his share of the bills directly. When the parties moved into the Royston Property, some changes and upgrades were made to it. In general, Mr. Murley would perform the labour and Ms. Vigen would pay for some of the materials.
- [45] In 2006, the parties bought a rental property together. Although the rental property was entirely in the name of Mr. Murley, they each contributed \$20,000 to the down payment. I accept Ms. Vigen's explanation that the property and mortgage were in Mr. Murley's name only because she was not working at the time. There is no dispute that both of the parties had an equal interest in this property despite the fact that Mr. Murley's name was the only one on title and despite the fact there was no written agreement to this effect. It is inconsistent with a business, or landlord-tenant relationships for parties to buy property in one party's name only when intended to benefit both of them without a formal arrangement as to its beneficial ownership. After Ms. Vigen obtained employment, the rental property was transferred into joint tenancy. The rental property has since been sold and the proceeds

were split equally.

- [46] The evidence conflicts as to the reason for the purchase of the rental property. Ms. Vigen testified that the rental property was part of their retirement plan: they would collect rental income, work for 10 more years, then sell the property and travel together. Mr. Murley testified that he purchased the house in his name because Ms. Vigen had been complaining that she wanted a house and so he agreed to do so and that she could pay him back later. Mr. Murley's explanation makes little sense and given my concerns with his credibility, I accept Ms. Vigen's testimony in this respect.
- [47] I accept Ms. Vigen's testimony that the parties discussed retirement plans consistent with the above and that in their retirement they were going to travel to various places in North America in a motor home. I also accept that the parties considered moving to Grand Prairie's together because the property was less expensive.
- [48] In 2018, the parties acquired an additional double wide trailer to be put on the other side of the Royston Property. Both of them contributed financially towards the acquisition and moving of the trailer to the property. They had no written arrangements about this acquisition but had a general plan to share in the additional rental income. The additional rental income did not come to fruition as the condition of the trailer was not suitable for rental.
- [49] Both of the parties always claimed as being single on their income tax returns. Ms. Vigen explains that Mr. Murley told her that if she reported that they were in a common-law relationship that he would throw her off the property. He told her that it was important to him that she reported a single and that she not be added on title. In approximately 2019 or 2020, Ms. Vigen became worried about the consequences of reporting single when in fact she believes she was in a common-law relationship. She went to an accountant to discuss this change but Mr. Murley refused to do it. At that time, Ms. Vigen believed that because she was not on title to the property she had no recourse or entitlement to the Royston Property.
- [50] Mr. Murley professed on a number of occasions that Ms. Vigen paid him rent to live at the Royston Property. He could provide no residential tenancy agreement nor any receipts for this supposed rent paid. I do not accept that rent was ever paid or discussed given the nature of their relationship.

Involvement in Families and Attitude towards Children and Pets

- [51] The parties had very little involvement in each other's families. Although Mr. Murley's parents lived not far from the Royston Property, Ms. Vigen only met them on a couple of occasions. However, it appears that Mr. Murley also only visited his parents infrequently, such as on special occasions. Ms. Vigen explains that Mr. Murley told her that he did not want her to meet his family because she had no social skills and he was embarrassed of her. Nonetheless, as Mr. Murley Senior testified, Mr. Murley's parents would give them joint gifts

for Christmas.

- [52] Ms. Vigen's family lives in Alberta and Mr. Murley did not meet them until 2022. However, like Mr. Murley, Ms. Vigen rarely saw her family while she lived with Mr. Murley and did not see them at all between 2000 and 2009. Since 2022, Mr. Murley has attended at weddings of Ms. Vigen's family members with Ms. Vigen.
- [53] Mr. Murley has a son from a previous relationship. Ms. Vigen has not met Mr. Murley's son. However, Mr. Murley has only seen his son once since he was a small child and that was at his Grade 12 graduation in or around 2008 and he has not seen him since. Mr. Murley is not aware of whether or not he has grandchildren.
- [54] Mr. Murley and Ms. Vigen have owned a number of dogs together and have shared the caretaking responsibility for these dogs. It is clear that both of them were emotionally attached to these pets and made joint decisions as to their acquisition and medical care. Some of the dogs were buried the property after they passed away. There are currently two dogs, each of the parties has the care of one dog and they are content with that arrangement.

Conclusion

- [55] Upon a holistic review of all of the evidence presented by the parties, I conclude that Ms. Vigen has met the burden upon her of proving that she was in a marriage like relationship with Mr. Murley from September 1, 1999, until January 31, 2024.
- [56] Mr. Murley maintains that he never intended to be in a marriage like relationship with Ms. Vigen. While this may be the case, it is not determinative of the nature of the parties' relationship. In any event, his purported view it is not consistent with the objective evidence of the parties' lifestyle over the past 25 years as discussed above. On the evidence before me, the parties' relationship was a volatile and unhealthy one. However, this does not mean that it was not marriage-like. Like a formal marriage, a violent and unhappy relationship can be a marriage-like relationship, despite outside observers not understanding why the parties would want to remain in such a relationship.

DIVISION OF THE ROYSTON PROPERTY

- [57] Having found that Ms. Vigen and Mr. Murley were spouses for the purposes of the FLA, on separation, each of them is presumptively entitled to an undivided half interest in all family property, regardless of their respective contributions, pursuant to s. 81 of the FLA.
- [58] The Court of Appeal in *Zilic v. Zilic*, 2021 BCCA 107, summarized the general principles with respect to property division in the family law context. The general principles identified at para. 13 that are relevant to this case are:

- a) Family property includes all real and personal property owned by at least one spouse on the date of separation: FLA, s. 84(1). It also includes property acquired by a spouse that is derived from family property and the value by which "excluded property" increased during the relationship: FLA, ss. 84(1)(b)(i), (2)(g).
 - b) Some property held by a spouse is excluded from family property. Excluded property is property acquired before the relationship, inheritances [and gifts], property derived from excluded property, and some additional categories of property: FLA, s. 85. The onus of proof is on the spouse claiming that property is excluded property: FLA, s. 85(2).
- [59] Consequently, the Royston Property is family property. Given that the parties agree that any other property currently in their sole names is to remain theirs, the only family property is the Royston Property. There is not currently, nor has there ever been, a mortgage on the Royston Property. As referenced earlier, the parties agree that the appraised value of the Royston Property is \$590,000. As the parties also agree, Mr. Murley has an excluded property claim in the amount of \$90,000 which is the amount he acquired the property for before the marriage-like relationship began. Thus, the value of the family property to be divided equally, less Mr. Murley's excluded property claim is \$500,000. Ms. Vigen is entitled to an undivided half interest in that amount which equals \$250,000.

NEXT STEPS, COSTS, AND SUMMARY OF ORDERS MADE

- [60] The parties were in a marriage-like relationship from September 1, 1999, to January 31, 2024. Ms. Vigen's claim for an undivided half interest in the Royston Property, less Mr. Murley's excluded property claim is allowed. Given that Ms. Vigen abandoned her claim for spousal support, her claim in that respect is dismissed.
- [61] Although Ms. Vigen currently resides at the Royston Property, she confirmed that she does not wish to stay there and nor does she propose to purchase Mr. Murley's interest. As I understand it, Mr. Murley wishes to retain the Royston Property. It is not clear to me whether there is currently a certificate of pending litigation ("CPL") filed by Ms. Vigen against the Royston Property, and the parties were unable to clarify this for me at the hearing. I also do not know if Mr. Murley requires access to equity from the Royston Property in order to purchase Ms. Vigen's \$250,000 interest. If he does require access to equity by way of re-financing and there is a CPL on title, arrangements can be made to lift the CPL for the purpose of re-financing upon a solicitor's undertaking that the amount owing to Ms. Vigen will be paid to her or the solicitor in trust. Ms. Vigen will have 30 days to vacate the Royston Property from the date upon which she receives payment of her interest in the family property. The parties have leave to seek further directions from me in respect of effecting Mr. Murley's buy-out of Ms. Vigen's interest in the Royston Property.

- [62] If Mr. Murley decides to sell the Royston Property in order to satisfy Ms. Vigen's interest, the parties are to make arrangements to appear before me to seek directions with respect to the conduct of the sale of the property. To be clear, if Mr. Murley decides to sell the Royston Property to satisfy Ms. Vigen's undivided half interest, Ms. Vigen is entitled to 50% of the net proceeds of the sale, less Mr. Murley's \$90,000 excluded property claim.
- [63] Mr. Murley has two months from the date of these Reasons to decide whether he will buyout Ms. Vigen's interest and to advise her of his decision. If he has not advised Ms. Vigen of his intention within this time, then Ms. Vigen may arrange to appear before me to make an application that the Royston Property be sold.
- [64] On August 28, 2024, Mr. Murley was provided with a probation order and a conditional discharge in relation to a charge of assault against Ms. Vigen in respect of the events that resulted in his leaving the Royston Property on February 1, 2024. The probation order is for a period of eight months and expires on April 28, 2024. One of the conditions is that Mr. Murley is not permitted to go to the Royston Property without Ms. Vigen's consent, except for certain periods of time to pick up and drop off his work equipment.
- [65] It is not certain that Ms. Vigen will have been paid her interest in the Royston Property or that she will have vacated the property by April 28, 2024. Consequently, it is appropriate in my view to make an order under s. 90 of the FLA that Ms. Vigen have exclusive occupancy of the Royston Property until she has been paid her interest in the property and has been given 30 days after such payment to vacate. In the event that the Royston Property is sold to satisfy her interest, then she will have exclusive occupancy of the Royston Property until further order of this Court, but not later than when title to the property has transferred to the new purchaser.
- [66] Furthermore, consistent with the probation order, I order that Mr. Murley is not to attend at the Royston Property while Ms. Vigen has exclusive occupancy, except during the hours of 8:00 a.m. to 9:00 a.m. and 7:00 p.m. to 8:00 p.m. daily.
- [67] Ms. Vigen has been successful and is entitled to her costs on the ordinary scale.
- [68] I encourage the parties to obtain the assistance of legal counsel in order to implement the terms of my order.

Summary of Orders Made

[69] The following is a summary of the orders made pursuant to these Reasons:

- a) This Court declares that the parties were in a marriage-like relationship from September 1, 1999, to January 31, 2024, and therefore, were spouses for that time pursuant to s. 3 of the FLA.

- b) The property located at 4024 Island Highway S., Royston, B.C. and legally described as PID 003-150-267, Lot A Section 6A, Nelson District, Plan VIP23828, Manufactured Home Reg #1286, is the parties' family property pursuant to s. 84 of the FLA (the "Royston Property").
- c) The Royston Property is the parties' only family property and is subject to division under the FLA.
- d) The respondent's claim to exclude \$90,000 of value from the Royston Property as his excluded property is allowed under s. 85 of the FLA (the "Excluded Property Amount").
- e) The claimant is entitled to an undivided one-half interest in the Royston Property, less the Excluded Property Amount.
- f) The fair market value of the Royston Property at the date of trial is \$590,000.
- g) Within 60 days from the date of these Reasons, the respondent must advise the claimant of whether he intends to purchase her undivided half interest in the Royston Property, or if the Royston Property will need to be sold in order to satisfy her interest in the Royston Property.
- h) If the respondent has not advised the claimant of his intention as required under subparagraph (g), above, then the claimant has leave to apply to the Court for directions regarding the sale of the Royston Property.
- i) If the respondent elects to purchase the claimant's interest in the Royston Property, then:
 - i. the claimant will have 30 days to vacate the Royston Property after receipt of the full payment of her undivided half-interest in the Royston Property; and
 - ii. the parties have leave to seek further directions from Justice Majawa in respect of effecting that purchase, including if directions are required in order for the respondent to re-finance the Royston Property.
- j) The parties will each retain their own personal property in their names and are responsible for their debts in their own names.
- k) The parties will each retain their respective RRSP and pensions, if any, and release any claims to such assets in the other's name.
- l) The claimants claim for spousal support is dismissed.
- m) Pursuant to s. 90 of the FLA, the claimant shall have exclusive occupancy of the Royston Property until:
 - i. 30 days have elapsed after she has received full payment of her interest in the Royston Property should the respondent elect to purchase her interest; or
 - ii. further order of this Court, but not later than when title to the Royston Property has transferred to the new purchaser, should the Royston Property need to be sold in order for the claimant to receive her undivided half-interest.

- n) Pursuant to s. 222 and 226 of the FLA, the respondent is not to attend at the Royston Property while the claimant has exclusive occupancy, except during the hours of 8:00 a.m. to 9:00 a.m. and 7:00 p.m. to 8:00 p.m. daily, or with written consent of the claimant.
- o) The claimant is entitled to her costs on Scale B.

[70] I will seize myself with respect to matters arising in respect of the implementation of the order for a period of 12 months.

"Majawa J."

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Prepared on 27 October 2026 · Esheria