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# Torres v. Parsons et al., 2025 ONSC 4593

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**DATE:** 2025 08 15

**ONTARIO**
**SUPERIOR COURT OF JUSTICE**

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| **B E T W E E N:** | ) | |
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| PETER TORRES | ) | A. Colangelo, for the Applicant |
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| | ) | |
| Applicant | ) | |
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| **- and -** | ) | |
| | ) | |
| | ) | |
| SHAWN PARSONS and CHARMAINE CORREA-PARSONS and VICTORIA CORREA-PARSONS | ) | T. Kaye and M. Gora, for the Respondents |
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| Respondents | ) | |
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| | ) | **HEARD:** February 25-27, 2025. Written submissions completed March 28th, 2025. |

## REASONS FOR JUDGMENT

**LEMAY J**

[1] The Applicant, Peter Torres, was engaged to be married to the Respondent Victoria Correa-Parsons. The other Respondents are Victoria's

parents. Given that all of the Respondents share a last name, I am going to refer to all of the parties by their first names. No disrespect is intended by this.

[2] In 2018, Peter bought a house. The title shows that he owned 99 percent of the house, and Shawn and Charmaine owned a total of 1 percent of the house. Peter paid the down payment on the house, which was a total of $450,000. When the parties moved in, Shawn and Charmaine paid Peter an amount equivalent to the monthly mortgage payment. They also paid for the internet, cable, and groceries. Peter paid for the utilities and property taxes. Victoria was at school, and generally did not contribute to the household expenses.

[3] The four parties lived in the house for just over two years until the relationship between Victoria and Peter broke down in October of 2020. Peter moved out of the property in early 2021 while the Respondents continued to reside in the property. Peter brought an application to have the property partitioned and sold. Ultimately, the property was sold in the spring of 2022. The proceeds of sale remain in court.

[4] Peter alleges that the entire proceeds of the sale of the house belong to him other than the 1 percent interest that Shawn and Charmaine hold. Shawn, Charmaine, and Victoria allege that there was an agreement under which Peter would get his deposit and down payment back, they would get their mortgage payments back, and they would split the remaining proceeds of the sale of the property. In the alternative, Shawn, Charmaine, and Victoria allege that the doctrine of unjust enrichment should apply and that there was a joint family venture here. On that basis, they also seek a 50/50 split of the remaining funds after Peter receives his deposit back.

[5] For the reasons that follow, I find that there was no agreement, and that the doctrine of unjust enrichment does not apply in this case. As a result, the Applicant is entitled to 99 percent of the proceeds being held in trust while the

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Respondents Shawn and Charmaine are entitled to 1 percent of the proceeds being held in trust.

## Background

### a) The Parties and the Relationship

[6] The Respondents Shawn and Charmaine have been married to each other since April of 1989. They have three children, who are ages 35, 34, and 33. The Respondent Victoria is the youngest of these children. Charmaine works as a bookkeeper and Shawn currently works as the Vice President of Operations for Main Event Security and has been in that position for four years. Prior to that, he was the Operations Manager of Northwest Protection.

[7] Victoria is currently a Registered Veterinary Technician. In 2015, she was attending the University of Toronto. She was also working part-time at Northwest Protection as a security guard.

[8] Peter is currently a custodian for the Peel District School Board. In 2015, he was working as a security guard at Northwest Protection. While he was working there, he met both Shawn and Victoria. Peter then began to go to events and barbecues at the home where Shawn, Charmaine, and Victoria lived.

[9] In 2015-2016, all the Respondents lived in a property that they were renting on Haverty Trail in Brampton. In addition, Shawn and Charmaine's eldest child and his girlfriend were living in that house. I understand that the rent at that property was $1,900 per month.

[10] Peter and Victoria started dating in February of 2017, and they got engaged on March 31st, 2018. When they got engaged, Peter more or less moved into the Haverty Trail home, and he and Victoria began to discuss their plans for a life together.

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[11] Sometime before this relationship began, Peter had been involved in a car accident. At the time that he moved into the Haverty Trail home, he was receiving a caregiver benefit. Ultimately, he settled the car accident claim. I am not aware of the precise terms of the settlement or of the details of the accident, but I understand that it involved the payment of both a significant lump sum and an annuity.

b) **The Decision to Purchase a House**

[12] In April of 2018, Peter and Victoria had decided that they were not going to get married immediately. Victoria was finishing her last year at the University of Toronto and would be attending Sheridan College in September of 2018 to become a veterinary technician. That is a two-year program.

[13] Victoria had decided that she was not in a position to purchase a house as she was working part-time, going to school full-time, and could not afford the mortgage payments. I also heard evidence that, if Victoria was put on title to any house that was purchased, she would end up losing her eligibility for Ontario Student Assistance Program (OSAP) funding. Given that I heard no contradictory evidence, and that Victoria was not cross-examined on this point, I accept this evidence.

[14] Peter, however, was interested in purchasing a house. He and Victoria began house hunting in a casual manner in April of 2018. There were then some discussions about how the purchase of a house would work. Those discussions included whether Shawn and Charmaine would live with Victoria and Peter.

[15] Ultimately, it was decided that a house would be purchased if one could be found, and a search began in earnest. The parties also decided that Shawn, Charmaine, Victoria, and Peter would all live together. I understand that the

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ultimate plan was to find a home with a basement apartment where Charmaine and Shawn could live separately but in the same property.

[16] Shawn knew a real estate agent, Mahdi Kessentini, who lived behind the Haverty Trail property. Shawn had known Mahdi since Mahdi was a kid. The parties asked him to assist in a house search. At the start of the search, it was Shawn, Victoria, and Peter who were looking at the prospective properties.

[17] Mahdi found the property at 1 Cochrane Avenue in Brampton. The house had a big backyard, which was something that the parties were looking for. Shawn and Charmaine had two dogs, and Victoria and Peter had adopted a Great Dane/Mastiff cross, which I understand is a very large dog. The Cochrane Avenue property also had enough space for everyone to live in.

[18] According to the Respondents, there had originally been an agreement between them and Peter that they would hold Victoria's 50 percent interest in the property, and that the expenses would be shared equally. When Victoria finished school, her 50 percent interest would be transferred to her. If the parties' living situation went south, then Peter would get his down payment back. This was referred to by the Respondents as "Agreement 1." My understanding is that, according to the Respondents, this agreement was reached prior to the Agreement of Purchase and Sale ("APS") being signed.

[19] An offer was made for the property. The APS lists the purchasers as Shawn, Charmaine, and Peter. It does not indicate who is taking title to what portion of the property. The property was ultimately purchased for $822,000.

[20] After the APS was signed, Peter discovered that his income would not allow him to qualify for the mortgage. As a result, according to the Respondents, they agreed to co-sign for the loan. The Respondents state that, under this agreement, they would hold Victoria's 50 percent interest in the property, and that

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the expenses would be shared equally. When Victoria finished school, her 50 percent interest would be transferred to her. If the parties' relationship "went south", then Peter would get his down payment back. The Respondents referred to this as "Agreement 2." Peter stated that there was never an agreement on these terms.

[21] Peter provided the deposit of $20,000 as well as the down payment of $430,000 from his personal funds. It is common ground that none of the Respondents made any contribution to the deposit, the down payment, or the closing costs. The deposit and down payment were approximately 55 percent of the total cost of the property. During the course of the evidence, I had mentioned that it was 58 percent, which was a calculation error on my part. I also note that part of this money was used to pay for a fence for the backyard.

[22] Shortly after the offer was made, Peter determined that he could not qualify for the mortgage on his own. As a result, Shawn and Charmaine agreed to go on title for the property and become liable for the mortgage. A meeting with the Royal Bank of Canada (RBC) was held on September 10th, 2018. There is some disagreement about what was said at that meeting, which I will return to below. However, it is agreed that Shawn, Charmaine, and Peter all signed documentation indicating that they were all liable to pay the mortgage. The mortgage was pre-approved that day.

[23] The next day**,** on September 11th, 2018, the parties attended at the offices of Mr. Robert Love. He had been recommended to them by Mahdi and no one had a pre-exiting relationship with Mr. Love. He was the lawyer who was acting for all parties in closing the transaction. There is a disagreement over what happened at this meeting, and I will return to it below.

[24] The transaction closed and the parties moved into the property in October of 2018. Shortly after they moved in, there was a discussion about what expenses

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Peter could afford to pay. Ultimately, Peter became responsible for paying the property taxes and utilities, while Shawn and Charmaine were responsible for the mortgage, internet, groceries, and cable.

[25] In his testimony, Peter seemed to suggest that there was some significance to the fact that Shawn and Charmaine transferred the money for the mortgage payment to his account. I do not see any significance to this. On the questions that I have to address, the issue is whether there is an agreement and who paid what expenses. The fact that the money ultimately came from one account, or the other, is not determinative of anything.

[26] In any event, the parties' pattern of expenses continued up to the start of the pandemic. Peter and Victoria did the grocery shopping, and Shawn and Charmaine would reimburse them for the expenses. However, right around the start of the pandemic, there were three changes:

a) Charmaine lost her job sometime in February of 2020.

b) Shawn was diagnosed with cancer. While this happened in very early 2020, the children (including Peter and Victoria) were not told until April 2020.

c) Shawn and Charmaine decided that they should do the grocery shopping as they thought that there could be a reduction in the costs. Peter was offended by this change, although he did not tell Shawn or Charmaine about it at the time.

[27] These three changes, particularly the change in the grocery shopping, caused some tensions in the relationship between Peter and the Respondents, and particularly his relationship with Shawn and Charmaine. At the same time, Victoria had begun working as a veterinary technician. She was an essential worker and was not at home a lot during this time period.

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### c) **The End of the Relationship and the Litigation**

[28] The changes in 2020 also caused tensions to appear in the relationship between Peter and Victoria. This developing tension caused some smaller fights prior to Thanksgiving Weekend in 2020. Ultimately, Peter and Victoria's relationship ended around Thanksgiving of 2020. On that weekend, the parties all testified that Peter and Victoria went to Peter's parents' house for lunch. They were supposed to be home for dinner. Peter brought Victoria home but did not stay home himself. He went out for several hours and did not tell Victoria where he was going.

[29] By the time Peter returned, Victoria had gone up to bed. Peter got into an argument with Charmaine, and then an argument with Victora. Ultimately, the relationship between Peter and Victoria ended within a day or two of those arguments. There was considerable tension in the house.

[30] In November of 2020, Peter had been spending most of his time at his parents. On November 6, 2020, Peter, Victoria, Charmaine, and Shawn had a conversation to discuss what to do about the Cochrane property. A portion of this conversation was recorded by Victoria, although no one else was aware that it had been recorded at the time. Victoria told her parents that she recorded the conversation about an hour after it happened. Peter did not become aware that the conversation had been recorded until litigation started.

[31] There is a dispute about whether the parties reached an agreement at the end of this conversation. I will return to that issue below. However, I note that portions of the conversation were played in evidence, and the parties have differing views of the significance of that conversation.

[32] After this conversation, there was almost no direct contact between the parties. Peter developed COVID in February of 2021. Given Shawn's cancer

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diagnosis, Peter decided to quarantine at his parents' house. In March of 2021, after completing his quarantine period, Peter went to the Cochrane property to do some things. When he attended at the house, the Respondents were under the impression that he still had COVID.

[33] I understand that a lawyer's letter was sent to Peter within a day alleging that he should not be at the property, although what was said was not completely clear to me. Peter did not attend at the property again for any length of time and did not live there between March of 2021 and when the property was sold in March of 2022.

[34] Other than this interaction, there was almost no direct contact between Peter and the Respondents after January of 2021. A lawyer's letter was sent by Peter's counsel in January of 2021 and there was some correspondence back and forth between the lawyers. In May of 2021, Peter's current counsel sent a letter advising that he would be bringing an application under the *Partition Act*, R.S.O. 1990, c P.4. Ultimately, this application was commenced, affidavits were sworn by the parties, and cross-examinations were conducted.

[35] The application was to proceed to a hearing. However, on November 9, 2021, the parties entered into a consent order before D. Fitzpatrick J. As part of this hearing, D. Fitzpatrick J. noted that there was some evidence missing and, in particular, that the file of Mr. Love would need to be produced. He also noted that *viva voce* evidence would be required and directed that a mini-trial take place.

[36] At the hearing before D.Fitzpatrick J., the parties entered into a consent order that required the Respondents, who were continuing to live in the house, to vacate the house by February 6, 2022. The property was then to be listed for sale by February 28, 2022.

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[37] The property was duly listed for sale and sold. The sale closed on April 14, 2022. The purchase price was $1,655,500. There were real estate commissions of $112,000, which were paid out of the purchase price. The balance of the mortgage was paid off, the lawyer's fees were paid off, and there was a payment made to Enercare. The real estate documents indicate that this payment was the buyout of the rental HVAC system. The balance that remained in trust was $1,197,472.98. I understand that all of that money remains in trust.

[38] There is a dispute about why all of the money remains in trust. Counsel for Peter observed that, even on the Respondents' theory of the case, Peter was entitled to the first $450,000 in trust. Counsel for the Respondents alleged that this money had not been paid out because they were waiting for Peter to complete the agreement. I have come to the conclusion that this issue is not relevant to the disposition of the merits of this case because it deals with post-litigation events and does not provide any proof as to whether there was an agreement or not. However, it may be relevant to costs. I will return to that issue at the end of my reasons.

[39] It is not clear to me what happened to this file in the intervening two years. The matter came back before Tzimas R.S.J. on December 10th, 2024. At that time, this application was set for a two-day hearing in the week of February 24th, 2025. That hearing duly took place over three days before me.

[40] At the conclusion of the evidence, the parties requested that I permit them to file written arguments rather than making oral submissions. I acceded to that request. I was also advised that the Respondent was considering ordering the transcripts of evidence. Given that information, I determined that the court should order the transcripts and provide them to both parties to ensure that we all had an even playing field in considering the evidence.

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[41] After the evidence, I also provided the parties with a list of questions that I might have asked both of them had there been oral argument. I reminded the parties that the questions should not be taken as an indication that I had made any decisions, but just as an indication of the points that had occurred to me as I listened to the testimony and reviewed the documentary evidence.

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**Evidence and Credibility**

[42] I should briefly outline the nature of the evidence I heard. I heard *viva voce* evidence from all four of the parties. They had all provided affidavits as part of the application record, and they all adopted those affidavits, which were marked as exhibits. Each party was also examined in chief and cross-examined.

[43] In addition to that evidence, Mahdi, the real estate agent who had acted on the purchase of the Cochrane property, provided an affidavit that was tendered by the Respondents. He also testified by ZOOM and was examined.

[44] Finally, I received the file of Mr. Love, the real estate lawyer who had acted on the transaction. The parties agreed that Mr. Love had no specific recollection of what happened in this transaction, and that his file would be admitted for the truth of its contents. Mr. Love did not testify.

[45] In addition to this evidence, there was one evidentiary issue that arose during the trial. In his evidence in chief, Peter stated that he had made a lump sum payment on the mortgage of somewhere around $45,000 at some point. He testified that he had used the term in the mortgage that allowed him to pay 10 percent of the principal to the bank. He testified that he paid that amount (which was $38,000) as well as an extra amount of $7,000 and a fee to pay the extra amount. I understand that this type of payment is called a balloon payment. He testified that he couldn’t obtain the documents from the bank in time for the beginning of the trial.

[46] Peter's counsel sought to call him in reply to address this issue. I ruled that this matter had been before the courts for a long time and that any additional documentary evidence about the balloon payment could not be led in reply. However, I also pointed out to the parties that it should not be too difficult to determine whether this payment was made based on the record before the court. I will now set out that calculation.

[47] The calculation is based on the beginning mortgage balance of $385,000 and the ending mortgage balance of $330,969. This ending balance includes the addition of $8,772.21 to the mortgage balance on account of the fact that the mortgage was a closed mortgage, and the balance was being paid off early. As of the date that the property sold, the mortgage principal had been reduced to $321,616.26.

[48] As a result, in the approximately three years and four months that the parties owned the property, there was a reduction in the principal owing on the mortgage of $62,803. The total value of the mortgage payments that were made was approximately $67,042. This leaves a difference between the reduction in the value of the mortgage and the amounts paid of only $4,239.

[49] If no balloon payment had been made, this amount would represent the total interest on the mortgage for the three and a half years that the parties held the property. The interest rate on the mortgage was a fixed 3.74 percent rate. On the initial balance of $385,000, the interest would have been $14,399 for one year. This is more than the difference between the amounts owing and the reduction in the principal. There would have been additional interest of another approximately $35,000 for the other two and a half years that the parties owned the property.

[50] In short, the significant reduction in the principal amount of the mortgage strongly suggests that the balloon payment was made as Peter testified. His evidence was not contradicted, as Charmaine, Shawn, and Victoria all testified that

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they had not heard anything about the balloon payment until trial. As a result, I find that the balloon payment of $45,000 was made as set out in Peter's evidence.

[51] This brings me to credibility and reliability. They are different, but related, concepts. Credibility is the question of whether the witness is being truthful to the best of their ability. Reliability is the question of whether the witness can accurately observe, recall, and recount the events in question: *R. v. H.C.*, 2009 ONCA 56, 244 O.A.C. 288 at para. 41.

[52] In this case, I have some concerns about the credibility and reliability of all of the witnesses. I will deal with Madhi's evidence below as it relates to a single discrete conversation.

[53] In Peter's case, I am concerned about his unwillingness to admit basic facts about the case. As an example, Peter was unwilling to admit the fact that Shawn and Charmaine paid the mortgage. He took the position that they were giving him money and that he was making the mortgage payments. However, the money was given to him every month and was the amount of the mortgage payment. This evidence struck me as disingenuous.

[54] In Shawn's case, his evidence seemed to be focused on proving that there had been an agreement and that the Parsons family had been hard done by rather than providing evidence of what actually happened. An example of this will suffice to illustrate my concerns. In his evidence, Shawn asserted that the expenses for himself and Charmaine were $1,500 to $2,000 more when they were at the Cochrane house than when they were living at Haverty trail. Shawn then went on to say at a different point in his evidence that the grocery bill at the Cochrane house was $2,000 per month.

[55] The problem with this evidence is that these numbers are not supported by the other evidence that the Respondents tendered, and particularly by the

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spreadsheet of expenses that was prepared by Charmaine. That spreadsheet is divided into a number of categories. The only categories on that spreadsheet that could possibly be groceries are transfers to Peter, groceries, and ordered food. The total amount spent in those categories between the time the parties moved into the Cochrane house in October of 2018 and when the relationship ended in October of 2020 was $19,042.13, which is an average of $793.44 per month. This amount is a far cry from the $2,000 per month that Shawn claimed. This significant disconnect between his evidence and the facts brings the rest of his evidence into question.

[56] Then, there was Charmaine's evidence. She testified that the meeting with Mr. Love was "quick." However, she also testified that he had to change the way that the transaction was drawn up while they were there. As I will explore more fully below, these two positions are inconsistent and leave me with concerns in respect of Charmaine's evidence.

[57] Finally, there was Victoria's evidence. Her evidence was more indirect in that she was not involved in many of the conversations that allegedly took place about the money and the arrangements for the purchase of the house. However, Victoria was very definitive about what had happened and what the agreement was. This definitiveness struck me as out of place given her lack of direct knowledge. However, this is a much less significant issue than the issues I had with the other witnesses.

[58] With those general observations in mind, I will address the question of what evidence I accept and what evidence I reject as I conduct my analysis of the issues. I am, however, approaching all of the *viva voce* evidence cautiously.

**Issues**

[59] There are two issues that I have to determine in this case:

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a) Whether there was an agreement between the parties and, if so, what that agreement was.

b) If there is no agreement between the parties, whether there is an unjust enrichment that permits the Respondents to claim some portion of the funds in this case.

[60] I will deal with each issue in turn.

**Issue #1- Was There an Agreement?**

[61] In analyzing this issue, I note that there were three alleged agreements. The first two alleged agreements, which the Respondents referred to as Agreement 1 and Agreement 2, relate to what was said prior to or just after the purchase of the house. The third alleged agreement is the one flowing from the discussion on November 6, 2020.

[62] In the sections that follow, I will set out the relevant law. Then, I will deal with the question of whether the parties entered into either Agreement 1 (described in paragraph 18) or Agreement 2 (described in paragraph 20). Finally, I will deal with the question of whether the parties reached an agreement on November 6, 2020. I will deal with Agreements 1 and 2 together for two reasons. First, the evidence in respect of whether both agreements were entered into is almost the same. Second, if Agreement 1 was entered into, then the parties likely entered into Agreement 2. Conversely, if they never entered into Agreement 1, then they probably never entered into Agreement 2 either.

**a) The Relevant Law**

[63] The question of whether the parties have reached an agreement is a question of fact. As a result, the case-law is of assistance in understanding the general principles that I need to apply.

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[64] One of the most important of those principles is the distinction between an agreement and an agreement to agree. In this respect, the Court of Appeal's decision in *Bawitko Investments Ltd. v. Kernels Popcorn Ltd* 1990 CanLII 2734, (1991), 79 D.L.R. (4th) 97 (Ont. C.A.), is instructive. The court states:

> As a matter of normal business practice, parties planning to make a formal written document the expression of their agreement, necessarily discuss and negotiate the proposed terms of the agreement before they enter into it. They frequently agree upon all of the terms to be incorporated into the intended written document before it is prepared. Their agreement may be expressed orally or by way of memorandum, by exchange of correspondence, or other informal writings. The parties may "contract to make a contract", that is to say, they may bind themselves to execute at a future date a formal written agreement *containing* specific terms and conditions. When they agree on all of the essential provisions to be incorporated in a formal document with the intention that their agreement shall thereupon become binding, they will have fulfilled all the requisites for the formation of a contract. The fact that a formal written document to the same effect is to be thereafter prepared and signed does not alter the binding validity of the original contract.
>
> However, when the original contract is incomplete because essential provisions intended to govern the contractual relationship have not been settled or agreed upon; or the contract is too general or uncertain to be valid in itself and is dependent on the making of a formal contract; or the understanding or intention of the parties, even if there is no uncertainty as to the terms of their agreement, is that their legal obligations are to be deferred until a formal contract has been approved and executed, the original or preliminary agreement cannot constitute an enforceable contract. In other words, in such circumstances the "contract to make a contract" is not a contract at all.

[65] Another key principle is that the parties do not have to have an agreement in writing in order to have an agreement, even in respect of real property. An oral contract will suffice: *Mountain v. T.D. Canada Trust Company*, 2012 ONCA 806, 112 O.R. (3d) 721 at para. 66.

[66] Finally, in my list of questions, I raised the *Statute of Frauds*, R.S.O. 1990, c S.19 with the parties. Counsel for the Respondent pointed out that an agreement with respect to the proceeds of sale confers an interest in money and not an interest in land: *Zikman v. 156665 Canada Inc.*, 2008 CanLII 15781 (ON SC) at para. 12; *Harris v. Lindeborg*, 1930 CanLII 28 (SCC), [1931] S.C.R. 235. As a

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result, I accept that, if the parties had entered into any of these agreements, the *Statute of Frauds* would not act as a bar to any of them.

[67] With these principles in mind, I now turn to the facts.

**b) Alleged Agreements 1 and 2**

[68] There are no contemporaneous documents prepared by either of the parties to support their diametrically opposed positions on whether there was an agreement. As a result, I am left with the evidence of other people and the documents that I do have in order to determine what happened in this case.

[69] There are a number of pieces of evidence in respect of these two alleged agreements that should be considered, both separately and together, in order to determine whether there was actually an agreement. Those pieces of evidence are:

a) The conversation with Mahdi

b) The conversation at the Bank

c) The discussion at the lawyer's office and the contents of his file.

[70] Once I have set out some factual conclusions on each of these points of evidence, I will then turn to addressing whether Agreements 1 and 2 were actually made.

***The Conversation with Mahdi***

[71] The Respondents allege that there was a conversation with Mahdi when the APS was signed on the driveway of the Haverty Trail residence. The Respondents allege that this conversation was a discussion that the property was

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being purchased as a family, with 50 percent for Peter and 50 percent for Shawn and Charmaine.

[72] In his email to Shawn on February 17, 2021, Mahdi states:

> Hi Shawn,
>
> No problem, please let me know if you need anything else.
>
> To be honest with you, I thought your intentions was to purchase the home for the 4 of you with you guys splitting it 50 / 50. 50% for Charmaine and yourself and 50% for Peter and Vicky.
>
> Call me tomorrow if you get a chance,

[73] This email is part of a larger exchange between the two of them about the sale of the property and the documentation that went with it. There are two problems that this email illustrates. First, Mahdi's recollection of the conversation in the driveway is not the same as either of the agreements that the Respondents allege were reached. Second, his recollection in this e-mail was not consistent with his trial testimony.

[74] At trial, Mahdi stated, in his examination in chief, that the split was "Fifty towards the Parsons, 50/50 towards the- Peter, right?" This is a different split than what he originally set out in his e-mail. In cross-examination, Mahdi acknowledges that he is not really sure what the ownership split is, and he doesn't really recall the conversation.

[75] In submissions, the Respondents' counsel stated that Mahdi is independent of the Parsons, that he was not shaken in cross-examination, and that his evidence "contradicts Peter's suggestion that the Parsons were only on title to satisfy a "technicality." The problem with these submissions is that they do not consider either the e-mail produced at paragraph 72 above or the conclusion of Mahdi's cross-examination where he confirmed that he really didn't know what the ownership structure was.

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[76] In the end, the oral evidence of Mahdi is inconsistent with what he included in the e-mail that he sent at the behest of the Respondents. I cannot conclude that any conversation in respect of the ownership of the Cochrane Avenue property took place on the driveway when the APS was signed. Therefore, this evidence does not assist the Respondents.

***The Conversation at the Bank***

[77] As I have set out above, Peter was not able to qualify for the mortgage on his own. As a result, there was an agreement that Charmaine and Shawn would be put on the mortgage. As I will discuss below, in my view there must have been some agreement between the parties.

[78] The meeting at RBC was to get pre-approval for the mortgage. It was with a person named Julie. Shawn testified that, during this meeting, Julie confirmed that they would all be equal owners in the property. Charmaine provided similar evidence. Peter does not recall any conversation of this nature with Julie.

[79] Peter's counsel argues that I should draw an adverse inference from the Respondents' failure to call Julie to testify about this alleged agreement. Counsel relies on *Stikeman Elliott LLP v. 2083878 Alberta Ltd.*, 2019 ABCA 274, 95 Alta. L.R. (6th) 1. In that case, the court set out the principles from *Wigmore* on when adverse inferences should be drawn. In essence, the failure to bring forth a witness who a party says will support their position can be grounds for an adverse inference.

[80] In these circumstances, I am expressly not drawing an adverse inference from the Respondents' failure to call Julie as a witness for two reasons. First, there is no property in a witness. If Julie had evidence that would have supported the Applicant's position, I would have expected him to consider calling Julie. Second,

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it is unlikely that Julie would have had an independent recollection of one transaction that took place nearly seven years before the trial in this matter.

[81] In any event, however, there is nothing in the documents that would indicate that the parties had reached an agreement for a 50/50 split in the ownership of the property. Indeed, all the information that I have about the mortgage is that the parties were all on the mortgage and all liable for it. The materials from RBC do not provide any indication of who owns what percentage of the property.

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[82] Given the lack of definitive information in the materials from RBC along with the dispute between Peter, Charmaine and Shawn as to what happened, I am of the view that I should focus on other evidence in order to determine what happened. I now turn to the events at Mr. Love's office.

***The Events at Mr. Love's Office***

[83] The testimony about the meeting at Mr. Love's office is the most significant of the evidence that I have. If the events happened the way that Shawn and Charmaine say that they happened, then there was likely an agreement along the lines of Agreement 1 or Agreement 2. If they happened the way that Peter says that they happened, then there was likely not an agreement.

[84] I should start, however, with counsel for the Applicant's submission that I should draw an adverse inference against the Respondents for a failure to call Mr. Love as a witness. I reject this argument. The parties **agreed** that Mr. Love would have no specific recollection of the conversations he had with the parties. From this agreement, I conclude that the parties did not expect Mr. Love to be able to add anything to these proceedings with his evidence. At this point, it would be unfair to the Respondents to draw any inferences whatsoever from the fact that Mr. Love did not testify.

[85] Shawn and Charmaine both testified that they had originally been going to sign an agreement that would have put them on the title for 50 percent of the property. They testified that there was some sort of first-time home buyer's credit that would be lost if they were on title for 50 percent of the property. Instead, they testified that Mr. Love recommended that Shawn and Charmaine should reduce their portion of the property to 1 percent.

[86] In his affidavit, Peter acknowledged that there was some discussion with Mr. Love about the homebuyers tax credit and about transferring the property in future if he and Victoria got married. However, Peter denied that the conversation took place as described by Shawn and Charmaine.

[87] I reject Shawn and Charmaine's explanation of the discussion in Mr. Love's office for five reasons. First, if I accepted this explanation, I would have to accept that Mr. Love recommended a substantial change in who had title to this property to the parties and did not record this advice in his file. Given the significant adverse financial effect that this might have on Shawn and Charmaine's interests, I would have expected this issue to have been spelled out in Mr. Love's files.

[88] Second, there appeared to be an inconsistency in the evidence of Shawn and Charmaine. I asked counsel for the Respondents to address this issue in the questions I asked at the conclusion of the evidence. Counsel responded that there was no material inconsistency on this issue. I am not so sure about that, as Charmaine testified that Mr. Love left the room to re-do the papers when they were there while Shawn made no mention of that fact.

[89] The larger problem is that, even if there is no inconsistency, on the evidence of Shawn and Charmaine, Mr. Love would have had to entirely change the paperwork that he had drawn up for the meeting. It would not have been a "quick" meeting as, on the version of events given by the Respondents, the paperwork would have had to have been re-done during the course of the meeting.

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I would also have to accept that Mr. Love made this change and left no indication in his file that he had been instructed to make this change or that he had drawn up the papers in a different way previously.

[90] Third, the reason that Shawn and Charmaine say that there was a change in the ownership structure makes no sense. They both testified that the change in the ownership structure of the property was suggested so that they would not end up causing either Victoria or Peter to either lose out on tax rebates that were available or to end up with a larger than necessary tax burden when the house was eventually put in Peter and Victoria's names. There seemed to be some suggestion that there would be capital gains taxes if the Parsons held half of the property and transferred it to Victoria at some later date.

[91] Again, the problem with this evidence is that one would have expected to find some indication of these discussions in Mr. Love's file. There is no indication that Mr. Love discussed any of these issues with the parties. There is also no explanation as to what these tax consequences were, other than for the Land Transfer Tax.

[92] Fourth, Shawn and Charmaine signed an acknowledgement that reads as follows:

> We , Shawn Parsons and Charmaine Correa-Parsons acknowledge that we have Instructed Robert M. Love and Simmons, da Silva LLP In connection with the purchase and mortgage of 1 Cochrane Avenue, Brampton (the "property") to include us as owners as to a 1% Interest as joint tenants. We acknowledge that we have applied to the Royal Bank of Canada to be Included as borrowers on the mortgage being advanced to fund the purchase of this property.
>
> We acknowledge that we did not contribute any of our own funds towards the purchase of the property and that our participation is for the sole purpose of assisting Peter Torres to qualify for the mortgage.
>
> We have been advised that the even though we are only going on title as to a 1% interest, we are jointly and severally liable for 100 % of the mortgage debt. In the event of a default in payment of the debt, the Royal Bank of Canada can look to me to re-pay the debt.

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> We acknowledge that Robert M. Love and Simmons, da Silva LLP are acting for me and for and the Royal Bank of Canada. I acknowledge that we have the opportunity to seek Independent legal advice before the transaction is to be completed on September 13, 2018 and have declined such advice.

[93] This acknowledgement is completely inconsistent with the evidence that Shawn and Charmaine gave. There was no credible explanation for this document. Shawn testified that this provision was included in the paperwork because Mr. Love told them that Peter would not be able to claim the first-time homebuyers benefit unless it was there. However, if that explanation was true, then the parties would also have prepared a trust agreement. The entire discussion would also have been recorded in Mr. Love's file. On this point, Shawn's evidence was that the details of the tax weren't explained, only that "[t]here would be a significant tax that would be owed, giving 50 percent of our ownership to Vicky and Peter." Again, if it was a **significant** tax issue, one would expect Mr. Love to have memorialized the discussion. It is also relevant to my disposition of this issue that no one was able to either explain what precisely this significant tax liability would have been or how much it would have been. This lack of detail made the explanation offered by Shawn and Charmaine less credible.

[94] Finally, the paperwork from Mr. Love's office makes it clear that the parties were told about entering into a trust agreement if necessary. They never entered into a trust agreement. The specific provision from the documentation states:

> We have been advised to enter into a Trust/Ownership Agreement regarding the subject property.

[95] For these reasons, I conclude that the parties arrived at Mr. Love's office with an understanding that the split between them in respect of the ownership would be 99/1. From that, I infer that the evidence that both Shawn and Charmaine gave about the meeting at Mr. Love's office was incorrect.

***Conclusions on Agreement 1 and 2***

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[96] While these objective items are all either neutral or point away from an agreement as described by the Respondents, they are not all of the evidence that I have. I have the testimony of the parties that I have to consider. As I have indicated, there are difficulties with all of the witnesses' evidence.

[97] I start with Peter's evidence. He has testified that he does recall some discussion about the Land Transfer Tax with Mr. Love. This is not surprising, as it is something that usually has to be paid on the closing of a property sale. He also indicated that there were some discussions with Victoria about their future. These discussions would have involved the house that was being purchased. All of this evidence, however, suggests that there were discussions between the parties about how the home would be managed.

[98] This brings me to the Respondent's evidence. I should note that Shawn in particular provided detailed evidence about the discussions that he claims took place at Mr. Love's office. That evidence included testimony on how he and Peter shook hands on the verbal agreement "in front of the lawyer." There was no such agreement discussed in front of the lawyer. In my view, this is a deliberate embellishment on the part of Shawn, similar to his embellishment about the amount that was being spent on groceries (see paragraph 55).

[99] More generally, the evidence of all of the Respondents had deficiencies. I have detailed some of them in my analysis of credibility and reliability and others in my discussion of the various other pieces of evidence above. Further, I have found that, contrary to Shawn and Charmaine's testimony, there was no discussion of a 50/50 agreement in Mr. Love's office. That conclusion significantly weakens the credibility and reliability of the rest of their evidence. Taken together, all of these concerns cause me to conclude that there was no deal that would have allowed the Parsons to instantly have a 50 percent share in any profit that was made on the home.

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[100] However, I am of the view that there was an understanding that Victoria would eventually become a part owner in this property if the parties continued on with their relationship and got married. In other words, it was an understanding that was contingent on Victoria and Peter getting married. I have addressed that issue in my analysis of the unjust enrichment issue at paragraph 126, below. Briefly put, however, the understanding was contingent on a future event (a wedding) that never happened. As a result, there is no deal and no transfer of an interest in the property to Victoria.

[101] Finally, even if the parties had reached the agreement the Respondents describe, Shawn could not explain what would happen under these deals if the value of the house went down. The only explanation I got was that they would have had to stay in the house. There was no indication as to how the losses would be shared. When the test in *Kernels Popcorn* is considered, it is difficult to see how what the Respondents described could be an agreement. What would happen if the parties incurred losses is an essential term of this type of agreement and there was no meeting of the minds on it.

**c) The November 6, 2020 Agreement**

[102] The Parsons allege that there was an agreement reached with Peter on November 6th, 2020. They allege that the agreement was essentially the same as the agreement that they claim had been made prior to the closing of the Cochrane property purchase.

[103] In support of that position, they have a recording that was taken by Victoria shortly after the start of the meeting. This recording was made surreptitiously, without the knowledge of anyone else. Victoria told her parents she had made the recording shortly afterwards, but Peter did not discover the existence of the recording until after the litigation had started.

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[104] Peter's counsel argues that the use of surreptitious audio recordings is to be strongly discouraged by the courts and directs my attention to the decision in *Rudin-Brown et al. v. Brown and Brown v. Rudin-Brown et al.*, 2021 ONSC 3366, 155 O.R. (3d) 750. The problem with that argument is that, in *Brown*, while the court makes the observation that these recordings are to be strongly discouraged, the court goes on to observe that they are admissible in evidence, subject to a general balancing of their probative value and prejudicial effect.

[105] Counsel for the Respondents makes the point that surreptitious audio recordings are admitted into evidence when the recording relieves the court from having to decide the case based on an incomplete record. In this case, given the problems that I have with the credibility and reliability of all of the witnesses, the recording is helpful evidence of what was actually said, rather than what people remember being said. Although I have the same concerns as my colleague had in *Brown*, I see no reason why this recording would not be admissible.

[106] Peter's counsel also argues that the audio recording should not be given weight for three reasons. First, it does not start at the beginning of the conversation and, as a result, he argues that we do not have the whole context of the conversation. Second, he argues that, since Victoria knew that she was recording the conversation, she would have behaved differently. Finally, there was some suggestion that there had been tampering with the tape although this argument is not explicitly advanced in counsel's submissions.

[107] I reject all three of these suggestions. First, the fact that the recording does not start at the beginning of the conversation does not mean that the essential elements of the discussion are not captured. Second, although Victoria knew that the conversation was being recorded, the rest of the participants did not know that it was being recorded. As Victoria had the least involvement in the various discussions, the fact that she might have been more guarded in what she said

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does not change the import of the conversations. Finally, although there were suggestions that the recording was tampered with, there was no real evidence on which I could actually make a finding of tampering.

[108] This brings me to the actual discussion. Counsel for both sides have provided excerpts of the discussion in their written arguments. It is useful to amalgamate these excerpts into one more complete passage. The most relevant passages from the discussion are as follows:

> 12:43: Shawn Parsons: "We want our mortgage payments back no matter how much that comes out to depending on how we sell the house, and then after that split it 50-50 whatever is left over after all the fees and everything else are paid. I think that's fair."
>
> 13:00: Charmaine Parsons: "I thought we were calculating into it his cable, or sorry, his utilities and property taxes…."
>
> 13:09: Shawn Parsons: "that's what I'm saying…. He's paid the taxes, he's paid all this stuff, really wen it comes to food, there's three of us there's only one of him…. Cable and internet…"
>
> 13:28: Shawn Parsons: "I know for sure we want to get our mortgage money back, and we'll split whatever after all the fees, we'll split the rest 50-50, does that sound okay to you?"
>
> 13:33: Peter Torres: "Sounds reasonable"
>
> 13:40: Peter Torres: "We are still going to have to get lawyers involved."
>
> 14:05: Victoria Parsons: "We have to have a written agreement anyway."
>
> 14:08: Shawn Parsons: "If we agree to this, we just got to get it written up. And once we have it written up, and then notarized, then we can move forward to sell the house. If we agree to that, then we can have it written up in like a couple of days. We can get it off the internet."
>
> 14:36: Shawn Parsons: "Then we'll just get it notarized and it's done"
>
> 14:40: Peter Torres: "Okay"
>
> 14:44: Peter Torres: "Should I still book an appointment with the real estate agent?"
>
> 14:50: Shawn Parsons: "Yes. At this point if we have an agreement we'll book with the real estate agent because ... to sell the house we have to sign the papers and we won't

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> sell the house until we have our agreement done. But at this point, yes get the real estate agent."

[109] This is not the entire conversation. However, each side provided excerpts in their materials. This is a compilation of the excerpts that were provided by both sides. I have also listened to the entire conversation to ensure both that the transcriptions that were provided were accurate and that there was nothing significant missing.

[110] The conversation that the parties excerpted was not the complete conversation. However, the important parts are set out above. This conversation does **not,** in my view, disclose an agreement. In particular, at 14:50 of the conversation, Shawn says “if we have an agreement.” It is clear that the Parsons are looking for all of the mortgage payments back as well as for half of any gain in the value of the property. However, it is not clear that Peter ever agreed to that. The closest he came was saying that it sounded reasonable. However, there was no actual agreement, and it was clear that the parties, or at least Peter, intended to get legal advisors involved. Shawn also acknowledges, towards the end of the conversation (at 14:50), that **if** there is an agreement the real estate agent will need to become involved. Finally, there is some back and forth that is not resolved about what should be done with the expenses that Peter incurred, such as insurance and property taxes. The parties had discussions about what an agreement would look like, but they never actually reached an agreement.

[111] As a result, I am of the view that there was no agreement on November 6, 2020. This argument also fails.

### d) Conclusion

[112] For the foregoing reasons, there was no agreement between the parties either prior to or after the purchase of the Cochrane property that would result in

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any distribution of the proceeds of sale different from the 99/1 split envisioned by the title.

**Issue #2- Unjust Enrichment**

**a) The Law**

[113] The test for unjust enrichment is set out in *Moore v. Sweet*, 2018 SCC 52, [2018] 3 S.C.R. 303. At paragraph 37, the court sets out the following three elements that must be established to find an unjust enrichment:

a) The Applicant must be enriched;

b) The Respondents must have suffered a corresponding deprivation; and

c) The Applicant's enrichment and the Respondents' corresponding deprivation occurred in the absence of a juristic reason.

[114] The assessments of the first two criteria are closely related. A straightforward economic approach is taken to both of them, with moral and policy reasons coming into play in the third branch of the test: *Moore*, at para. 41.

[115] The party claiming the existence of the unjust enrichment, in this case the Respondents, bears the onus of proof. *Peters v. Swayze*, 2018 ONCA 189 at para. 9.

**b) Applying the Law to the Facts**

[116] As I have noted above, certain expenses were paid by Peter and certain expenses were paid by Shawn and Charmaine. I was provided with a chart of monthly expenses by both parties. Other than the fact that there was a mortgage

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holiday for six months, there was no real dispute that the parties incurred the expenses that they claim to have incurred.

[117] I note that Peter argued that he did not need the Parsons to pay the mortgage for him. That may very well be. However, the fact is that they continued to pay the mortgage while they lived in the property. However, they also had the benefit of the property for a year while Peter did not live there and while Peter was paying for the utilities, property taxes and insurance.

[118] This brings me to the question of whether Peter was forced to vacate the Colborne property between November of 2020 and March of 2022. In my view, he was not forced out of the house. He had voluntarily decided not to live there long before the incident where he had COVID in Mach of 2021. Further, given Shawn's immunocompromised state as of March of 2021, it was not unreasonable for the Parsons to be concerned about Peter's health status and to have their lawyer write to Peter's lawyer.

[119] The best that can be said about the events in and subsequent to March of 2021 is that there was a miscommunication between a group of people that were not really communicating and, as a result, Peter did not come to the property for a year. However, the fact remains that the Parsons family had full use of the property in spite of the fact that Peter was paying for various expenses relating to the property. This brings me to the financial arrangements for the property.

[120] Peter paid the hydro, gas, water, property insurance, and property taxes. Based on the evidence I received, the amount spent on these items ranged from $875 to $1,000 per month.

[121] Charmaine and Shawn paid the mortgage, the mortgage insurance, and the groceries. Based on the evidence I received, the amount spent for each category was as follows:

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a) The mortgage was $1811.95 per month. It was paid from October of 2018 until the property was sold in 2022.

b) Groceries, as I have mentioned, were $793.44 per month, including the categories of transfers to Peter, groceries, and ordered meals.

c) Cable and internet, which was approximately $370 per month.

[122] There were also some items “for the house” that were tracked by Charmaine. However, other than a washer and dryer, most of these items went with the Parsons when the house was sold. As a result, I do not consider them relevant to the analysis of any deprivation or enrichment. Peter did not receive these items and, therefore, was not enriched by them except to the extent that he had their use for a couple of months.

[123] When these items are looked at on a purely financial basis, it appears that Shawn and Charmaine were paying about 75 percent of the expenses and Peter was paying about 25 percent of the expenses. Given that Shawn and Charmaine were paying for Victoria’s expenses while she was at Sheridan, there is nothing inherently unreasonable about this ratio. It is difficult to see how Peter was enriched and Shawn, Charmaine, and Victoria were deprived by a sharing of living expenses that ended up with three people paying ¾ of the expenses and one person paying ¼ of the expenses.

[124] Consider the analysis another way. When the Parsons were living in the Haverty Trail residence, the rent was $1,900 per month. The property was smaller than the Cochrane property, and they were also responsible for paying the utilities and buying groceries when they lived at Cochrane, although they would have received payments from their children to defray some of those expenses. Had the Parsons never met Peter and never lived with him, their expenses would have

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remained relatively similar to what they ended up paying in the years when they lived at the Cochrane property.

[125] It is difficult to see how the fact that there were no real changes in the Parsons' living expenses before and after their move to the Cochrane property amounts to a loss. They would have been in the same financial position had they never met Peter. The only difference is that everyone agreed that the Cochrane property was bigger than the Haverty trail property. As a result, the Parsons had the benefit of a bigger property with a backyard for their dogs.

[126] I can only see two possible losses in this case. First, there is the possible loss associated with the fact that Peter and Victoria did not get married. As a result, the Parsons lost the potential opportunity for Victoria to end up with 50 percent of the house when Peter and Victoria got married. However, that was no more than a contingent arrangement and there are no real financial losses to the Parsons as a result. Put another way, Peter had paid for the down payment for the house. A transfer of 50% ownership to Victoria would have been a gift to her. The fact that she did not receive this gift because the parties did not get married does not mean that either she, or her parents, have lost anything.

[127] Second, there is the fact that the Parsons could have attempted to purchase a house and use their rent money towards paying down the mortgage on that property. There are two problems with considering that type of loss. First, it is too contingent of a loss. Second, prior to the move to Cochrane, neither Shawn nor Charmaine had expressed any interest in owning a home. They had previously owned a home and were content to rent a property.

[128] This brings me to the cases that the Respondents rely on. Cases of unjust enrichment are always fact driven. However, the cases that the Respondent relies on are distinguishable. A key case is *Khan v. Soares*, 2021 ONSC 2682. That case concerns another situation where there was a 99/1 split in ownership. In that

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case, the court found that the intention of the parties was a 50/50 split. However, the contributions in that case were much more equal and, more importantly, in that case there was a clear statement from the parties' lawyer that the intent was a 50/50 split. That type of evidence does not exist in this case.

[129] Finally, Peter's counsel provided me with the decision in *Sidhu v. Sidhu*, 2023 ONSC 4618. That was a case of an intergenerational relationship, where the court found that the son and his wife had been promised the possibility of inheriting the house from the mother if they lived in it and managed all of the expenses. The relationship broke down and the son and his wife sought 50 percent of the proceeds of sale from the property. Their claims were dismissed, in part on the basis that they had received rents from third parties and the benefit of living in the property, which was quantified as a rent that they owed (para. 38). The court also found that there had never been an intention that the son and his wife would acquire the property during the mother's lifetime.

[130] Again, this case is different from the one before me. However, one of the key similarities is the fact that I have found that the understanding was that Victoria would acquire an interest in the property once she and Peter were married. Given that the marriage never took place, this understanding was never acted on. I have already explained why these facts do not give rise to an unjust enrichment.

[131] Given my conclusion on the fact that there is no enrichment and no corresponding deprivation, it is not necessary to consider the third element of the test. However, I will briefly note that Peter is, in this case, the property owner. It is not unjust for a property owner to lease out some (or even most) of his property, collect payments on that property, and use the payments to pay the carrying costs of the property. In those circumstances, one would expect the capital gains to accrue to the property owner. That is exactly what happened in this case.

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[132] The only difference is that Shawn and Charmaine were on title to guarantee the mortgage. As I have discussed above, that was part of a contingent arrangement that would have resulted in the property being transferred to Victoria over time and after she and Peter were married. It is not something that justifies compensation, as Shawn and Charmaine are not out-of-pocket for any more money than they would have had to pay to live even if they hadn't met Peter.

[133] I should also deal with the Respondents' argument in respect of proprietary estoppel. As set out by the Court of Appeal in *Schwark v. Cutting,* 2010 ONCA 61, 316 D.L.R. (4th) 105 at para. 16, that doctrine requires proof of three elements:

a) The owner of land induces, encourages, or allows the claimant to believe that he or she has or will enjoy some right or benefit over the property;

b) In reliance on this belief, the claimant acts to his or her detriment to the knowledge of the owner; and

c) The owner then seeks to take unconscionable advantage of the complainant by denying the complainant the right or benefit that the complainant expected to receive.

[134] I am of the view that this doctrine, which has some of the same elements as the doctrine of unjust enrichment, is also not applicable in this case. The problem for the Parsons in this case is identifying the action that they took that was to their detriment. While they paid an amount equivalent to the mortgage, they would have had to pay rent to live somewhere. Similarly, it is difficult to see how Peter has taken unconscionable advantage of the Parsons. He put all of the down payment into this property, they had the right to live in the property for a considerable period of time, and they made payments that were not

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disproportionate to the rent that they might have expected to pay if they had lived elsewhere. This doctrine also does not apply to this case.

[135] Counsel for the Respondents also refers to the decision of this court in *Arias v. Brennan*, 2020 ONSC 1603. *Arias* found that proprietary estoppel applied, but the court reached that conclusion on very different facts. In that case, in 2006, Mr. Sanchez originally agreed to co-sign the mortgage documents as Ms. Arias could not do so on her own and Mr. Sanchez said that he would transfer the title to her name once she was able to carry the property on her own. For a period of nearly 15 years, Ms. Arias carried the property on her own, with only minimal contributions from Mr. Sanchez. Those contributions stopped in 2011. Then, in 2017, Mr. Sanchez sought an accounting for the rental income and partition and sale of the home. The court found that Ms. Arias was entitled to sole title to the home and that Mr. Sanchez was not entitled to anything.

[136] The facts in *Arias* are plainly different from what I have before me. In this case, Peter put down the entire down payment, which was approximately 55 percent of the value of the home. He also paid the property taxes, the utilities, and the insurance. On the facts of the case before me, there is no basis to apply the doctrine of promissory estoppel.

[137] For all of these reasons, I find that there is no unjust enrichment in this case, and the Respondents' claim fails in that respect as well.

[138] Finally, counsel for the Respondents spent some considerable time discussing the various remedial approaches to the case, including whether there was a joint family venture ("JFV") in this case. Given my finding that there has been no unjust enrichment, the question of whether there was a JFV does not arise. The existence of a JFV only becomes relevant at the remedial stage, once an unjust enrichment has been found to exist: *Reiter v. Hollub*, 2017 ONCA 186, 96 R.F.L. (7th) 96 at para. 21.

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[139] However, I will briefly observe that it is difficult to see how this relationship would have been a joint family venture for the following reasons:

a) The relationship between Peter and Victoria was a relatively short relationship.

b) The parties did not have joint bank accounts.

c) The parties had clearly delineated lines of financial responsibility between them.

[140] For the foregoing reasons, the Respondents' claims in unjust enrichment are all dismissed.

**Conclusion and Costs**

[141] For the foregoing reasons, I am ordering as follows:

a) That the proceeds of sale currently held in trust are to be released with 99 percent being paid to Peter and 1 percent being paid to Shawn and Charmaine.

b) That the claims for unjust enrichment and proprietary estoppel are dismissed.

[142] I should also note that there is a question that I have raised as to why the monies are still in court. Everyone agreed that Peter was entitled to his down payment and deposit back, in the sum of $450,000. The house was sold in 2022 but the monies have not been released to Peter. I raised this issue with counsel for the Respondents. They advised me that the monies were still in court because Peter "cannot have the benefit but not the burden of Agreement 2."

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[143] The problem with this argument is that, regardless of whether any of the alleged agreements were in place, that money clearly belonged to Peter. It appears that Shawn, Charmaine, and Victoria would not release that money unless Peter agreed to "the burden of Agreement 2." In other words, the Parsons were preventing Peter from accessing funds that were rightfully his **on any view of the facts of this case** in order to compel him to accept their terms. This appears to me to be a very aggressive litigation tactic.

[144] I note that, in support of this approach, counsel for the Respondents points to the decision in *Amstel v. Stren*, 2023 ONSC 1482. That decision only stands for the proposition that a court will not interfere when capable and informed people enter into bad bargains. It does not, however, assist the Respondents on this point. I repeat, regardless of the bargain that was entered into, Peter was entitled to a portion of the money more than three years ago.

[145] This is not the only suggestion of aggressive litigation tactics in this case. There is also a text message that Shawn sent to Peter in early 2021. It reads as follows:

> Sorry peter we reject your offer. You may want to inform your lawyer that the superior court of Brampton only take 2 cases a year that's a long time to wait . We will not be vacating the property. Thank you

[146] This text message, when considered in conjunction with the withholding of funds from Peter, raise concerns for me about the litigation tactics and about whether those litigation tactics should attract a higher level of costs. I hasten to add, however, that I do not have all of the facts at this point.

[147] I also acknowledge that I do not know what offers to settle were made in the litigation. To repeat, I have made no final conclusions on any of these issues as I do not have a full record and the parties have not had an opportunity to provide me with that information. However, I wanted to lay out my concerns for counsel in

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advance of receiving costs submissions so that both sides had a full opportunity to address those concerns.

[148] To that end, I am directing costs submissions on the following timetable:

a) Each party shall have 14 days to serve, file, and upload costs submissions. Those submissions are to be no more than 4 single-spaced pages, exclusive of bills of costs, offers to settle, related correspondence, and case-law.

b) Each party shall have 7 days thereafter to serve, file, and upload reply submissions. Those reply submissions are to be no more than 2 single-spaced pages, exclusive of bills of costs and case-law.

[149] I would suggest to the parties that they consider filing one brief of all of the correspondence on offers to settle. In the event that they cannot agree on that, or if a party is of the view that evidence beyond correspondence is necessary, they may write to me within 7 days of the release of these reasons and I will consider adjusting the timetable set out above and/or scheduling oral submissions.

[150] **In addition** to serving, filing, and uploading their costs submissions, the parties are to provide a copy of those submissions to my judicial assistant. Those submissions are to be sent to the general email box at SCJ.CSJ.General.Brampton@ontario.ca. This is not in lieu of filing with the court office. The e-mail is to have the file name and for my attention in it when it is sent.

[151] Finally, if I do not receive correspondence in accordance with these directives, then there shall be no order as to costs.

LEMAY J

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**Released:** August 15, 2025

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**CITATION:** Torres v. Parsons et al., 2025 ONSC 4593
**COURT FILE NO.:** CV-21-00002210-0000
**DATE:** 2025 08 15

2025 ONSC 4593 (CanLII)

**ONTARIO**
**SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

PETER TORRES

Applicant

**- and -**

SHAWN PARSONS and CHARMAINE CORREA-PARSONS and VICTORIA CORREA-PARSONS

Respondents

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**REASONS FOR JUDGMENT**

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LEMAY J

**Released:** August 15, 2025