STATE OF MICHIGAN

COURT OF APPEALS

ESTATE OF CHARLES H. GILMORE, by Personal Representative Mike Wilson, ESTATE OF JASON L. MEAD, by Personal Representative Ronald Mead, ESTATE OF MELISSA T. HANSEN, by Personal Representative Nancy Hansen, and CALVIN W. SCHALK, JR.,

Plaintiffs-Appellees,

v

NATIONWIDE INSURANCE COMPANY,

Defendant-Appellant.

UNPUBLISHED
January 15, 2004

No. 244825
Mecosta Circuit Court
LC No. 01-014750-AZ

Before: Markey, P.J., and Murphy and Talbot, JJ.

PER CURIAM.

Defendant insurance company appeals as of right a declaratory judgment entered in favor of plaintiffs in this action involving an automobile accident with multiple fatalities and the interpretation of insurance policies. Julie Erke, a college student, was driving the vehicle when it veered off the roadway and crashed. Specifically, the issue presented is whether Erke was a "resident" of the household where her parents and brother lived in Rogers City at the time of the accident. The trial court concluded that Erke was a "resident" for purposes of coverage under insurance policies issued by defendant and held by Erke's parents and brother, such that those policies would cover Erke's liability to plaintiffs for any negligence that may have caused the accident. We affirm, concluding that, under the totality of the circumstances and the relevant factors enunciated in case law, and giving the required deference to the trial court's findings, there was sufficient evidence to support the court's ruling that Erke was a "resident" with respect to the insurance policies.

I. BASIC FACTS

A. The Accident

On July 30, 2000, in the Big Rapids area, Erke was operating a Chevy Malibu, owned by Edward Langworthy, who was one of the passengers. Also in the vehicle were Calvin Schalk, Charles Gilmore, Jason Mead, and Melissa Hansen. According to the police report, the vehicle, going in excess of the speed limit, crossed the centerline, veered back into the right lane, ran off

the shoulder of the road, rolled over, and struck a rock and a tree. Gilmore, Mead, and Hansen all died as a result of the accident, and Schalk sustained serious injuries. Erke and Langworthy survived the crash. Plaintiffs asserted that Erke's negligence in operating the vehicle caused the accident, and that there was liability on Langworthy's part as owner of the Chevy Malibu.

B. The Insurance Policies

Erke had automobile liability coverage through a policy issued by defendant, and the policy limits provided coverage of $100,000 for each person injured and $300,000 for each accident. Defendant has offered the policy limit of $300,000 to settle the claims against Erke. Langworthy was insured through Allstate Insurance Company with policy limits identical to Erke's insurance coverage. Allstate has offered the policy limit of $300,000 to settle the claims against Langworthy.

Erke's parents and brother also had automobile insurance policies issued by defendant that were in effect on July 30, 2000. These policies provide that defendant will "pay damages for 'bodily injury' or 'property damage' for which any 'insured' becomes legally responsible because of an auto accident." The policies define "insured" as including any "family member." "Family member" is defined as "a person related to you by blood, marriage or adoption who is a *resident of your household*." (Emphasis added). The parties agree that the issue presented below and on appeal solely involves whether Erke was a "resident" of her parents' and brother's household at the time of the accident. There is no dispute that Erke is "related" to the policy holders of the insurance policies in question, i.e., her parents and brother, nor any dispute that her parents and brother were residents of the family farmhouse in Rogers City when the accident occurred. Thus, we must review Erke's intentions, movements, and actions, including where she was staying or living, during the relevant time frame.

C. Julie Erke's College Years

Erke was born in 1979, and she lived in her parent's farmhouse in Rogers City with her parents and brother until she left for college. Erke graduated from high school in the spring of 1998. In the fall of 1998, she began attending Ferris State University in Big Rapids, where she lived in the dormitories ("dorms") as required by the university.[1] From fall of 1998 to spring of 1999, Erke lived in the dorms, and visited home during the Thanksgiving and Christmas vacation breaks. During the summer of 1999, she returned home from college and lived in the family household. Pursuant to university policy, as testified to by Erke, she could not stay in the dorms during summer months, and she was still required to live in the dorms when she went back to school in the fall of 1999.

During the 1999-2000 school year, Erke lived in the dorms and again visited home during the Thanksgiving and Christmas holiday breaks. After Erke completed her sophomore year in

[1] According to Erke, Ferris does not permit students to live outside of the dorms until they have accumulated 56 credit hours and reached the age of 20. Further, students could not remain in the dorms during the Thanksgiving and Christmas holidays.

the spring of 2000, she was no longer required to live in the dorms. In February 2000, in anticipation of the 2000-2001 school year, Erke signed a lease agreement to rent an apartment ("Rapids Apartments") in Big Rapids with the rental period commencing in mid-August 2000. Her father signed as a surety and guarantor on the lease. For the summer of 2000, Erke chose to take courses at Ferris. These courses started in mid-May 2000, and Erke decided to live with friends in a rental home on Madison Avenue in the Big Rapids area ("Madison home") until she could move into the Rapids Apartments in August; she did not stay at the Rogers City home in the summer of 2000. Erke was not named on any lease agreement covering the Madison home rental. Rather, when a friend moved out of the home, she took his place and simply paid rent directly to one of the other tenants (comparable to a sublessee). The utility bills were also not in her name. It was during the period of time that Erke was living at the Madison home, and before she was scheduled to move into the Rapids Apartments, that the accident occurred – July 30, 2000.

After the accident, Erke spent a week in a psychiatric hospital, and later chose not to move into the Rapids Apartments for which she had signed a lease. She spent about three weeks in August 2000 staying with the parents of a friend, and then started her junior year at Ferris at the end of August. Erke lived with three friends during the 2000-2001 school year in a double-wide trailer which they rented. She visited her family during the Thanksgiving and Christmas holiday breaks. Erke subsequently graduated from Ferris in May 2001 with an Associate's Degree. After graduation, Erke returned home and lived there until mid-August 2001, at which point she left to begin attending Central Michigan University.

Erke testified in her deposition that when she returned to her parents' home for the holidays during her freshman year, she slept on a couch in the living room for the Thanksgiving break but occupied her old bedroom during the Christmas break. With respect to the holidays during Erke's sophomore year, she slept on a couch.[2] Her mother had started using her old bedroom as a workshop for a home business. Erke testified, however, that her old bed still remained in the room.[3] She made the following statements in her deposition regarding her departure to Ferris:

> Yeah, I took – I don't own a lot. So when I moved out of the dorms – or when I moved to college, I took everything I owned to college with me, and I just carry – I still just carry – wherever I move I carry all my stuff with me. I don't own a lot of stuff.
>
> My first year in college, I took everything. I eventually had to take some stuff home because of the overcrowding in the dorms. But I mean, I took all my yearbooks, all of my plaques from high school. . . .

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[2] The deposition testimony reflected that Erke did not return to her parents' home at Easter.

[3] Erke testified that on one of the 1999 holiday visits her boyfriend slept in her old bedroom while she slept on the couch as her parents did not want them sleeping together.

Yeah, I mean everything with the exception of – like, work clothes for home or clothes that I've never worn are probably still there, if not thrown away. Stuff I never wanted to use again I didn't take.

I was a freshman in college. When I first moved to college, I took everything I had with me, thinking that I was never coming home again, 'cause I didn't know better.

[W]hen I moved out to go to college my first year, I came back, like, a week later to get something, and they had already put stuff in my room. I think we both were under the understanding that I wasn't coming back to ever live – occupy that room permanently. And eventually I stopped coming home altogether for a long time.

According to Erke, at the time of the accident, her belongings, for the most part, were kept at the Madison home. She stated, however, that some high school mementos, beanie babies, and other odds and ends remained in a closet in her old bedroom. Erke did not take a cat, given to her by a boyfriend, nor her dog when she moved to the dorms because animals were not allowed. Erke indicated that, with respect to her numerous moves, she simply hauled her belongings, which were not substantial, from place to place. Concerning Erke's intent, she provided the following deposition testimony:

Q. Was it your intention that, once you left home to begin college, that that was basically a severance and that your plans were to get your college education and degree and then continue with your life outside of Rogers City?

A. Yeah. All my life I've wanted to leave Rogers City. Yeah, I really had no intention of going back.

* * *

Q. And in fact, that summer of 2000 you stayed in Big Rapids once your courses were done from the winter semester?

A. Right; yes.

Q. No intention of going back home?

A. Winter of 2000?

Q. I mean, when the courses ended in the spring of 2000 and the summer began, you told us that you --

A. I only had a week off, and I started summer classes.

Q. And your intention was to stay in Big Rapids?

A. Yeah. That – I had no intention of ever going back and living at my house; to visit yes but –

Erke's deposition testimony, however, also reflected that she thought of her parents' home as her permanent address.[4] The affidavit of Erke's father provided that "[w]hen Julie moved out from my house in August 1998, I had no reason to believe that she ever intended to return to my house to live on a permanent basis."

At the time of the accident, Erke's driver's license reflected that her address was her parents' home in Rogers City, as did the police report concerning the accident. In May 2000, Erke's father purchased a car for Erke, and the title document, which was in her name, indicated that her address was that of her parents. The loan for the car was in her father's name and he paid the insurance, although Erke was to make payments to her father to cover the loan and insurance. The certificate of no-fault insurance and the insurance policy declaration sheet (issued by defendant) for the vehicle listed Erke's address as being that of her parents. At the time of the accident, Erke was covered under her parents' medical insurance. Although she never exercised her right to vote, Erke was registered to vote in Rogers City. Erke's parents claimed her as a dependent on their 1998 and 1999 tax returns but not on their 2000 tax return for which year she filed her own return. On Erke's 2000 tax return and her 2000 financial aid application for college, she listed the address of her parents as her address.

During Erke's first two years of college and up until the accident, her bills and personal mail were received at her dorm, or, later, at the Madison home. Unsolicited or junk mail for Erke was still being delivered to her parents' home. When the accident occurred, Erke was working two jobs in Big Rapids and paying her living expenses, including tuition, room and board, food, and utilities. Erke testified that, during all of college, she paid for all of her living expenses.

D. Trial Court's Ruling

We first note that defendant incorrectly frames the issue on appeal as being whether the trial court erred in denying defendant's motion for summary disposition under MCR 2.116(C)(10) and in granting plaintiffs' cross motion for summary disposition as to plaintiffs' action for declaratory relief. As accurately pointed out by plaintiffs, despite the filing of cross motions for summary disposition, the parties stipulated to have the trial court render a judgment, not in the analytical framework of a summary disposition motion pursuant to MCR 2.116(C)(10), but rather on the basis of a preponderance of the evidence with consideration of all the documentary evidence submitted just as if a trial had occurred. The parties agreed that the trial court had before it, all the evidence the parties wished to present, and all that remained was a

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[4] Erke testified as follows:

Q. Okay. So when you said your home address, you're talking Rogers City?

A. Yeah; my permanent address.

ruling on the effect of that evidence with respect to whether Erke was a "resident" of her parents' and brother's household.

All parties affirmatively indicated their approval of the following statement made by the trial court:

> The parties have done extensive discovery in preparation for the summary disposition motions. And, if I understand correctly, counsel – and please correct me if I misstate this – you're simply going to argue the question of the residency of the individual in question, with the plaintiffs going first, defendant responding, and me making the decision, doing so not in the C-10 analytical construct of giving either of you the benefit of the doubt, so to speak, but basically simply deciding, once all of the arguments are done and the evidence reviewed, whether, on a preponderance analysis, residency has or has not been established.

In rendering its decision from the bench, the trial court spent a considerable amount of time carefully and thoughtfully reviewing the facts in relation to the numerous factors espoused in case law, which we shall explore infra, regarding the determination of residency. The trial court rejected any argument that college students, as a matter of law, remained residents of their parents' household. The court stated that, in all candor, the case was very close. The trial court ruled that Erke was a "resident" of her parents' and brother's household.[5] Defendant appeals as of right.

II. ANALYSIS

A. Standard of Review

In light of the stipulation, we are not reviewing a judgment predicated on summary disposition analysis, but rather a judgment for declaratory relief predicated on the evidence presented as if a trial had occurred. In *Ladd v Ford Consumer Finance Co, Inc,* 217 Mich App 119, 133; 550 NW2d 826 (1996), rev'd on other grounds 458 Mich 876 (1998), this Court stated:

> A circuit court's decision whether to grant declaratory relief under MCR 2.605 is reviewed for an abuse of discretion. *Allstate Ins Co v Hayes,* 442 Mich 56, 74; 499 NW2d 743 (1993). Although this Court has sometimes opined that declaratory judgments are reviewed de novo, see, e.g., *Michigan Residential Care Ass'n v Dep't of Social Services,* 207 Mich App 373, 375; 526 NW2d 9 (1994), the Supreme Court's decision regarding the governing standard of review plainly controls. *Hauser v Reilly,* 212 Mich App 184, 187; 536 NW2d 865 (1995). Therefore, we are constrained to apply an abuse of discretion standard.[6]

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[5] The trial court's analysis of residency factors and details concerning the court's reasoning for its decision are discussed infra.

[6] In *Allstate Ins, supra* at 74, our Supreme Court ruled that "[a]ssuming the existence of a case or (continued…)

The determination of domicile[7] is a question of fact for the trial court to resolve, and the court's decision will not be reversed on appeal unless the evidence clearly preponderates in the opposite direction. *Goldstein v Progressive Cas Ins Co,* 218 Mich App 105, 111; 553 NW2d 353 (1996); *Bronson Methodist Hosp v Forshee,* 198 Mich App 617, 631; 499 NW2d 423 (1993); *Dairyland Ins Co v Auto-Owners Ins Co,* 123 Mich App 675, 684; 333 NW2d 322 (1983).

B. Pertinent Case Law

We begin by reviewing the case law regarding the factors that should be considered in determining whether a person is a "resident" of a household. In *Workman v Detroit Automobile Inter-Ins Exch,* 404 Mich 477, 496-497; 274 NW2d 373 (1979), our Supreme Court stated:

> [B]oth our courts and our sister state courts, in determining whether a person is a "resident" of an insured's "household" or, to the same analytical effect, "domiciled in the same household" as an insured, have articulated a number of factors relevant to this determination. In considering these factors, no one factor is, in itself, determinative; instead, each factor must be balanced and weighed with the others. Among the relevant factors are the following: (1) the subjective or declared intent of the person of remaining, either permanently or for an indefinite or unlimited length of time, in the place he contends is his "domicile" or "household"; (2) the formality or informality of the relationship between the person and the members of the household; (3) whether the place where the person lives is in the same house, within the same curtilage or upon the same premises; (4) the existence of another place of lodging by the person alleging "residence" or "domicile" in the household. [Citations omitted.]

In *Dairyland, supra* at 678-679, an argument was made, in a case involving competing insurance companies, that the injured party, though living in a trailer with his sister and grandfather in Petosky, was "domiciled" at his mother's household in Harbor Springs. The *Dairyland* panel noted that "this Court has not had the opportunity to consider the particular problems posed by young people departing from the parents' home and establishing new domiciles as part of the normal transition to adulthood and independence." *Id.* at 681. This Court, after first acknowledging the factors cited in *Workman,* added:

> Other relevant indicia of domicile include such factors as whether the claimant continues to use his parents' home as his mailing address, whether he maintains some possessions with his parents, whether he uses his parents' address on his driver's license or other documents, whether a room is maintained for the

(…continued)

controversy within the subject matter of the court, the determination to make such a declaration [declaratory judgment] is ordinarily a matter entrusted to the sound discretion of the court."

[7] The Michigan Supreme Court has indicated that residency and domicile are to be analyzed similarly. *Workman v Detroit Automobile Inter-Ins Exch,* 404 Mich 477, 496; 274 NW2d 373 (1979).

> claimant at the parents' home, and whether the claimant is dependent upon the parents for support. [*Dairyland, supra* at 681-682.]

We now turn to a review of cases that specifically address college students. In *Montgomery v Hawkeye Security Ins Co,* 52 Mich App 457, 458-459; 217 NW2d 449 (1974), a civil action for assault and battery was filed against the plaintiff, and the plaintiff sought coverage to defend under his parents' homeowner's policy. The defendant insurance company maintained that the plaintiff was not a "resident" of his parent's household; therefore, it had no duty to defend or pay for any injuries. *Id.* at 459. The trial court found that the plaintiff was covered by the insurance policy, and this Court affirmed, stating:

> At the time of the incident Larry [the plaintiff] was 22 and a full-time student at Ferris State in Big Rapids, Michigan. Larry had lived at home with his parents in Flint except when in the service or, in this case, away at school. Larry's education at Ferris was being financed by G.I. benefits and support from his parents. His parents paid the rent on Larry's apartment at school. [*Id.*]

The *Montgomery* panel rejected the insurer's argument that a resident means only those actually dwelling in or occupying the physical premises named in the policy. *Id.* This Court stated that the term "resident" has no fixed meaning in the law; it has variable meanings depending on the context in which the word is used, and the meaning is to be determined from the facts and circumstances taken together in each particular case. *Id.* at 460-461, quoting Justice Levin in *Ortman v Miller,* 33 Mich App 451, 454-455; 190 NW2d 242, 244 (1971).

In *Goldstein, supra* at 107, the plaintiff, an automobile passenger, was injured in a head-on collision occurring on I-94 in Detroit. Besides the insurance policy covering the vehicle involved in the accident, the plaintiff sought coverage under a liability insurance policy issued by the defendant to the plaintiff's father. *Id.* The plaintiff's father resided in Maryland, and the plaintiff was a college student living in Missouri at the time of the accident. *Id.* The plaintiff had previously resided in Maryland in his parents' home before going off to college. *Id.*

The *Goldstein* panel, addressing the question whether the plaintiff was "domiciled" in the same household as his parents for purposes of the insurance policy, relied on the factors enunciated in *Workman* and *Dairyland, supra. Goldstein, supra* at 111-112. This Court concluded:

> Here, the evidence indicated that plaintiff kept the majority of his personal possessions at his parents' home in Maryland, used his parents' address on his Maryland driver's license, had his own bedroom at his parents' home, which remained empty in his absence, and returned to Maryland during holiday breaks and between school years. The evidence further established that plaintiff was financially dependent upon his parents, who were paying for his college education, and that plaintiff's father claimed him as a dependent on his tax returns.
>
> Given the above evidence, we cannot say that the evidence clearly preponderates in the opposite direction. Consequently, we find no error in the

trial court's determination that plaintiff was domiciled with his parents at the time of the accident. [*Id.* at 112.]

C. Application and Discussion

Taking into consideration the language and factors from *Workman*, *Dairyland*, *Montgomery*, and *Goldstein*, we shall now review those factors in the context of the evidence presented to the trial court and the court's findings.

1. *The subjective or declared intent of Erke.*

The trial court first noted that teens or young adults often leave for college intending never to return, "only to find themselves pulled back almost inexorably from time to time to the nest, whether they want to or not, either by circumstances beyond their control, or their changing feelings toward that nest which they tried to leave." With regard to this factor, the trial court found that Erke's declared intent was not to move back home, but when one looked at the facts which evolved after she left home, Erke repeatedly returned to her parents' home. The trial court stated that there was nothing in the record to suggest any intent to permanently remain in the Big Rapids area.

It is true that Erke declared that it was her intention not to return to Rogers City and her parents' home; however, she also stated that she "didn't know better," and that she considered her parents' home as her permanent address. Moreover, as recognized by the trial court, intent must take into consideration the actual actions taken by Erke, which would reflect and have a bearing on her intent. Here, the reality was that Erke was a college student bouncing often from one place to another, including times when she returned to the security of her parents' home. Erke also used her parents' address for purposes of car insurance, her license, loan applications, tax returns, and other items. These events and facts suggest an intent to use her parent's home as an "anchor" in her life or a place to reside at times until she had found permanence in another location, which apparently has not yet occurred. The trial court did not make a specific finding on this factor, but the court's ultimate determination implicitly recognized that the facts surroundings Erke's life during the relevant time frame reflected an intent to use her parents' farmhouse as a home base.[8] We cannot conclude that the evidence clearly preponderates in the opposite direction.

2. *The formality of the relationship between Erke and the members of the household.*

The trial court found that the relationship between Erke and her parents and brother was "about as formal as it comes." The court stated "[i]t's genetic, biological; parent, child, sibling . . ." We agree and conclude that this factor clearly favors plaintiff as Erke is directly related by blood to her parents and brother, and grew up in their presence in the family

[8] We give little weight to the affidavit of Erke's father because it reflects his perspective and not the relevant perspective, i.e., Erke's.

farmhouse. On the other hand, Erke was merely living with friends and acquaintances in the Madison home and in the dorms. These relationships were very informal.

3. *Erke's lodging or living arrangements at the time of the accident.*

The trial court acknowledged that at the time of the accident, Erke was living in the Madison home and not at her parents' home. The trial court's conclusion is accurate, and this factor favors defendant's position.

4. *Erke's mailing address.*

The trial court found that Erke used as a mailing address, the dorms and the Madison home. But the court further found that she also used her parents' mailing address for various purposes. The trial court did not specifically rule whether this factor favored one party or the other.

Many of Erke's bills and personal mail were delivered to the dorms, and later to the Madison home. Unsolicited or junk mail was still delivered to Erke's parents' home. Additionally, documents related to Erke's 2000 tax return, her license, the Secretary of State, and car insurance were mailed to her parents' home. The trial court stated that the important documents referenced in the preceding sentence bore on her intent to use her parents' house as a home base. The evidence did not clearly preponderate in a direction opposite to the factual findings made by the trial court.

5. *The place where Erke kept her possessions.*

The trial court found that Erke maintained some possessions at her parents' home, although at this stage of her life, Erke did not have many possessions. The trial court did not specifically rule whether this factor favored one party or the other.

Erke stated that some high school mementos, beanie babies, and other odds and ends remained in a closet in her old bedroom. Her cat and dog remained at her parents' home. It appears that the majority of her possessions were kept with her from move to move, but as the court noted, Erke did not have a significant amount of possessions. Weighing this factor, we conclude that it favors a finding of non-residency, though we give it little weight considering the small amount of possessions owned by Erke.

6. *Address on Erke's driver's license and other documents*

In regard to this factor, the trial court stated:

> She did use her parents' address for her driver's license, voter registration [and] other important things in life, such as other forms of insurance . . ., and indeed this insurance.

The record supports the trial court's factual findings. Erke's driver's license contained the address of the farmhouse in Rogers City. Erke also used her parents' address with respect to car title and insurance documents. Further, Erke used her parents' address for purposes of

college loan applications, tax returns, and voter registration. This factor favors plaintiffs and a finding that she was a "resident" of her parents' home.

7. *The maintenance of a room for Erke in the Rogers City farmhouse.*

Regarding this factor, the trial court simply indicated that Erke's room at her parents' home was "in a state of flux."

The evidence indicates that, while Erke's old bedroom was used by her mother for a home business at one time, Erke's bed remained in the room for use. Also, Erke used the bedroom subsequent to the accident. The evidence supports the trial court's finding that the room was in a state of flux, and we conclude that this factor favors neither party and should be given little weight.

8. *Erke's dependence on financial support from her parents for living expenses and school.*

The trial court found that Erke was providing the bulk of her own support. We agree that the evidence supports this conclusion; however, there was evidence that Erke was not totally financially independent of her parents. Erke's father bought her a car in the summer of 2000 shortly before the accident, and he also paid for the insurance, although Erke explained that she was to repay her father. Further, Erke's father signed as a surety and guarantor on the lease for the Rapids Apartments. Moreover, at the time of the accident, her parents provided her with medical insurance. We also note that Erke's father paid for attorney bills that arose out of the unfortunate tragedy.

III. CONCLUSION

After analyzing the relevant factors, the trial court summed up its reasoning in support of the conclusion that Erke was a "resident" of her parents' and brother's household. The trial court stated:

> Under the totality of the circumstances that I have commented on and been referred to, I believe that the preponderance of the evidence is that Julie Erke still remained in resident status with her parents' household at the time of this accident. She was striving to be otherwise, but had not crossed that threshold in terms of this policy language.
>
> Principal among the factors in my mind, the one that I have given the greatest weight, although not the entire weight, because none is controlling, is that for the most important things of life, her parents' address is the one that she relied upon. It was what I referred to as the anchor in her life. She was, I'll use the word, bouncing, although that really doesn't capture it, from location to location while a student. There was no permanence in her residency while a student, other than the security of her home base with her parents. And that's, in my mind, what the final analysis actually comes down to. And that covers a vast amount of information which has been provided to me. That is the bottom line.

> As such, I find that plaintiffs have established their proposition that Julie Erke was a resident, under this policy language, of her parents' household, also her brother's household, at the time of this accident.

We agree with the trial court's belief that this case presented a close call. We opine that the trial court's analysis of the relevant factors, overall, was consistent with the record. We further opine that the trial court displayed sound, logical reasoning in providing a basis for its conclusion that Erke was a resident of the family farmhouse. The evidence did not clearly preponderate in the opposite direction,[9] nor was it an abuse of discretion to grant declaratory relief in favor of plaintiffs. To conclude otherwise would render the review standards meaningless.

Affirmed.

/s/ Jane E. Markey
/s/ William B. Murphy
/s/ Michael J. Talbot

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[9] We note the following language in *Bronson, supra* at 631, which was an action where there was evidence, as here, supporting the residency arguments of both parties:

> In the case at bar, there are certainly facts that support both the conclusion that Mark Forshee was domiciled with his mother and that he was not domiciled with his mother. The trial court resolved the facts in favor of the conclusion that Mark Forshee was domiciled with [his mother]. While there were facts to support the opposite conclusion, we cannot say on review that the evidence clearly preponderated in the opposite direction. Accordingly, we affirm the finding of the trial court.

Here, giving the required deference to the trial court's findings, we also affirm.