

NOVA SCOTIA COURT OF APPEAL
Citation: *Snyder v. Chisholm*, 2015 NSCA 39

Date: 20150424
Docket: CA 425004
Registry: Halifax

Between:

Glenn Douglas Snyder and Thelma E. Snyder

Appellants

v.

William Patrick Chisholm

Respondent

Judge: The Honourable Justice Linda Lee Oland

Appeal Heard: January 21, 2015, in Halifax, Nova Scotia

Subject: Real Property – Profits *à Prendre* – *Conveyancing Act*, R.S.N.S. 1989, c. 97, s. 13(d)

Summary: A landowner deeded part of his property subject to a reservation of a right to enter on that part to remove hay. Throughout the next fifty years, the landowner, his successors in title and their assigns continuously exercised that right. The motions judge granted an order for a declaration in the nature of a profit *à prendre* to a successor in title.

Issues: What is the legal nature and effect of the reservation of that right in the deed?

Result: Appeal granted and the order set aside. The motions judge did not identify and apply all the essential requirements pertaining to two types of profits *à prendre*. The right reserved is not a profit appurtenant. It is a profit in gross, so the right may continue to exist as part of the estate of the landowner who deeded the property. However there was no evidentiary record which connected it to the respondent.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 14 pages.