

Date: 19981120

Docket: CA 147500

NOVA SCOTIA COURT OF APPEAL

Cite as: Mueller-Sparenberg Recycling Ltd. v. Schroeder, 1998 NSCA 206

Chipman, Freeman and Roscoe, JJ.A.

BETWEEN:

MUELLER-SPARENBERG RECYCLING
LIMITED

Appellant

- and -

HANS-JUERGEN SCHROEDER and
ANNAPOLIS HERBS AND PRODUCTS
LIMITED

Respondents

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) Ronald D. Richter
) for the Appellant
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) R. Alain Deveau, Q.C.
) for the Respondent
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) Appeal Heard:
) November 20, 1998
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) Judgment Delivered:
) November 20, 1998
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THE COURT:

The appeal is dismissed with costs as per oral reasons for judgment of Chipman, J.A.; Freeman and Roscoe, JJ.A., concurring.

The reasons for judgment of the Court were delivered orally by:

CHIPMAN, J.A.:

This is an appeal from a decision of Haliburton, J. in Supreme Court dismissing the appellant's action for a commission of 5% of the construction price of a home built by the respondents for a person introduced to the respondent, Schroeder, by Holger Mueller-Sparenberg, an officer of the appellant.

Haliburton, J. found, and this is supported by the evidence, that there was an agreement whereby the respondents would pay Holger Mueller-Sparenberg a commission of 5% of the amount of any building contract arranged between the respondents and the customer by the appellant. Holger Mueller-Sparenberg and his father introduced the respondent, Hans Juergen Schroeder, to one Dittmar who subsequently engaged the respondents to build a home on lands he purchased from Holger Mueller-Sparenberg's father. Haliburton, J. held that the appellant had failed to establish that this introduction constituted the arrangement of a contract as contemplated by the agreement respecting commissions to which I have referred.

This critical finding by Haliburton, J. is supported by the evidence, and the appellant has not shown that in rendering it Haliburton, J. made any error. It is not necessary, therefore, to explore whether the addition of Holger Mueller-Sparenberg as a party to the appeal would advance the case against the respondents.

The appeal is therefore dismissed with costs thereof which we fix at \$1,000.00, plus disbursements.

Chipman, J.A.

Concurred in:

Freeman, J.A.

Roscoe, J.A.