

CASE NO.

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JOHN METLIN, MICHAEL METLIN - and -
and BEATRICE METLIN

HANK W. KOLSTEE and
DONNA KOLSTEE

(Appellants)

(Respondents)

CA 175075

Halifax, N.S.

HALLETT, J.A.

[Cite as: *Metlin v. Kolstee*, 2002 NSCA 81]

APPEAL HEARD: March 21, 2002

JUDGMENT DELIVERED: June 7, 2002

SUBJECT: Real Property — Boundaries — Interpretation of Deeds — Ambiguity

SUMMARY: The husband of the appellant Mrs. Metlin owned a 180 acre farm in rural Nova Scotia. In 1965 he conveyed a 52 acre lot to a predecessor in title of the respondents. The respondents acquired the lot in 1985. There were cattle fences on the farm when the 52 acre lot was cut out of the farm in 1965. The description of the lot in the 1965 deed and in all subsequent deeds does not make any reference to the fences. In 1999 a boundary dispute arose between the parties. The respondents claimed that their lot consisted of all the lands within the boundaries of the fences. The trial judge agreed.

RESULT: On appeal the Nova Scotia Court of Appeal held that the trial judge erred in law in failing to give effect to the words in the deed describing the 52 acre lot. *Saueracker v. Snow* (1974), 47 D.L.R. (3d) 577 at p. 583 and *McPherson et al. v. Donald Cameron* (1866-69) 7 N.S.R. 208 followed. The respondents had not claimed title by possession.

The Nova Scotia Court of Appeal fixed the boundaries in accordance with the description of the lot in the deed to the respondents.

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 46 pages.