

NOVA SCOTIA COURT OF APPEAL

Citation: Nova Scotia (Attorney General) v. Brill, 2010 NSCA 69

Date: 20100909

Docket: CA 313430

Registry: Halifax

Between:

The Attorney General of Nova Scotia

Appellant
(Respondent by cross appeal)

v.

Alan R. Brill

Respondent
(Appellant by cross appeal)

and

Nova Scotia Barristers' Society

Intervenor

Judge: The Honourable Justice Joel Fichaud

Appeal Heard: May 31, 2010

Subject: Crown lands - marketable title - adverse possession - *Limitation of Actions Act* - *Land Registration Act* - *Marketable Titles Act* - *Quieting Titles Act*.

Summary: The Crown alleged there was no initial Crown grant to an island that was subject to Mr. Brill's chain of paper title. Mr. Brill sued for a certificate of title under the *Quieting of Titles Act*, and applied for summary judgment. The Chambers judge ruled on the applicability of the *Marketable Titles Act* and common law rules respecting chains of title, and dismissed Brill's application for summary judgment.

Issue: If there is no locatable initial Crown grant, can a land holder with a chain of paper title establish title to the land? Should Mr. Brill obtain summary judgment for a certificate of title?

Result: The Court of Appeal reviewed the principles under the Provincial legislation and the common law respecting the legal effect of a chain of paper title. The application of those principles to this case was a triable issue. The Court of Appeal dismissed the Province's appeal and Mr. Brill's cross appeal.

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 66 pages.