

NOVA SCOTIA COURT OF APPEAL

**Freeman, Roscoe and Bateman, JJ.A.**

**Cite as: Richey v. Rafuse, 1995 NSCA 180**

**BETWEEN:**

ROBERT W. RICHEY and  
Pettipas  
SHIRLEY K. RICHEY

Appellants

**- and -**

JACK P. RAFUSE

Respondent

)  
) Vincent L.  
)  
) and  
) David W. Richey  
) for the Appellants

)  
)  
) Frederick G. Angus  
) for the Respondent

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)  
) Appeal Heard:  
) October 17, 1995

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)  
) Judgment Delivered:  
) October 17, 1995

**THE COURT:**

The appeal is dismissed with costs to the respondent in the amount of \$750.00, plus disbursements as per oral reasons for judgment of Roscoe, J.A.; Freeman and Bateman, JJ.A., concurring.

The reasons for judgment of the court were delivered orally by

**ROSCOE, J.A.:**

This is an appeal from an order by a Supreme Court judge in Chambers in a matter arising pursuant to the **Quieting of Titles Act**, R.S.N.S. 1989, c. 382. An application made by the appellants (plaintiffs) for an order requiring the respondent to file a list of documents was granted, but a title search prepared on behalf of the respondent was exempted from production. The argument had been made that since s. 6 of the **Act** required the plaintiffs to file an abstract of title with the Originating Notice, which they had not done, the pleadings were not yet closed. Although the Chambers judge found that the pleadings had closed, it appears from her remarks that she was concerned that a previous order requiring the appellants to file a complete abstract of title had not been complied with.

The order in issue is both discretionary and interlocutory. This Court has repeatedly said that it will not interfere with such an order unless wrong principles of law have been applied or a patent injustice would result. See for example, **Exco Corporation Ltd. v. Nova Scotia Savings and Loan** (1983), 59 N.S.R. (2d) 331; **Nova Scotia (Attorney General) v. Morgentaler** (1990), 96 N.S.R. (2d) 54; **Westminer et al v. Coughlan et al.** (1989), 91 N. S.R. (2d) 214; and **Minkoff v. Poole et al.** (1991), 101 N.S.R. (2d) 143.

In our opinion, the Chambers judge made no error in fact or in law in reaching her conclusion. It makes sense that the appellants must comply with the **Act** and the previous order to file an abstract of title before they can compel the respondent to provide a copy of his abstract. The appeal is dismissed with costs to the respondent in the amount of \$750.00, plus disbursements.

Roscoe, J.A.

Concurred in:

Freeman, J.A.

Bateman, J.A.