

CASE NO.

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**Cite as: Shah v. Jesudason, 1999 NSCA 93**

**CAPTAIN V. S. SHAH**

**CAPTAIN STANLEY JESUDASON  
and NIRMALA JESUDASON**

(Appellant)

- and -

(Respondents)

C.A. No. **152051**

Halifax, N.S.

**PUGSLEY, J.A.**

**APPEAL HEARD:**

May 11, 1999

**JUDGMENT DELIVERED:**

July 7, 1999

**SUBJECT: C.P.R. 5.03(1), C.P.R. 14.25**

**ISSUE:**

The appellant brought action claiming a liquidated debt against the male respondent, and seeking, as well, a declaration to set aside a conveyance of real property in Nova Scotia, from the male respondent to his wife, on the ground that it was fraudulent and intended to defeat the appellant as a creditor.

Upon the respondent's application to stay, or strike, the statement of claim, the Chambers judge determined that the Supreme Court of Nova Scotia was not a *forum conveniens* respecting the debt action, and further ordered that the action be stayed until the claim in debt was determined in a court which is *forum conveniens*.

The appellant appealed submitting the Chambers judge erred in law by severing the issue of debt from the fraudulent conveyance action "thus requiring the appellant to obtain a monetary judgment against the male respondent in a foreign court, as a pre-condition to the pursuit of the fraudulent conveyance action against both respondents".

The respondents cross-appealed, submitting the Chambers judge erred in failing to determine the Nova Scotia Supreme Court did not have jurisdiction to hear the matter.

**RESULT:** Both the appeal and cross-appeal are dismissed. The Chambers judge did not err by applying a wrong principle of law, nor would a patent injustice result if the appeal and cross-appeal were to be dismissed. The Court was satisfied the decision of the Chambers judge was fundamentally sound and provided an eminently just and fair resolution to all parties. The Court viewed the issue as one where the Chambers judge concluded that a relatively minor property transaction in Nova Scotia should not be utilized as a device to require litigants to resort to the courts of this province to determine contractual rights arising from business transactions having no connection to this province.

**This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 12 pages.**