

**NOVA SCOTIA COURT OF APPEAL**  
**Citation: *Moore v. Moore*, 2003 NSCA116**

**Date:** 20031104  
**Docket:** CA 188114  
**Registry:** Halifax

**Between:**

Charice C. Moore

Appellant

v.

Gerald Daniel Moore

Respondent

**JUDGE:**                   **Hamilton, J.A.**

**APPEAL HEARD:**       **October 1, 2003**

**SUBJECT:**               **Family law- Interpretation of Marriage Contract**

**SUMMARY:**       **In dividing assets and debts between the parties on divorce, the trial judge considered the parties' marriage contract and made three decisions that were appealed. The decisions appealed involved their joint bank account, their furniture and a \$48,813.98 bank debt in the name of the husband alone. At the time co-habitation began, the wife owned a rental property that was subject to a mortgage. During the marriage the husband arranged for his bank to pay that mortgage by increasing his personal line of credit. The principal amount of the husband's line of credit at the date of trial was \$48,813.98. The case largely involved the interpretation of the marriage contract which went to great pains to provide that property in the name of one of the parties would not be subject to any claims by the other party in the event of divorce.**

**ISSUES:**               **Did the trial judge err in ordering (1) an equal division of their joint bank account as of the date of separation and that the wife would pay the husband all amounts she withdrew**

from this account after the date of separation, (2) that the parties retain the furniture in their possession at the date of trial, with the husband paying an equalization payment of \$1,867.50, and (3) the wife to pay the husband \$48,813.98 and secure payment with a mortgage on her rental property?

**RESULT:**

**Appeal allowed in part. The trial judge did not err in dividing the joint bank account as of the date of separation. This date was reasonable for this type of asset. Nor did he err in ordering the wife to reimburse the husband for the money she took from that account after the date of separation. The trial judge also did not err in his division of furniture between the parties. He had no option but to make a decision on the evidence before him, which did not include any evidence from the wife on this issue. The trial judge did err in ordering the wife to pay \$48,813.98 to the husband in connection with the debt he incurred in paying off the mortgage on her rental property, in light of the strong and repeated wording in the marriage contract where the parties gave up any interest they might have in property registered in the name of the other party. The outcome of the appeal was highly dependant on the wording of the marriage contract.**

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of **10** pages.