

NOVA SCOTIA COURT OF APPEAL

Citation: Theriault v. Theriault, 2003 NSCA 90

Date: 20030909

Docket: C.A. 188385

Registry: Halifax

Between:

Marjorie Ella Theriault

Appellant

v.

Walter Ross Theriault

Respondent

Judge(s):

Glube, C.J.N.S.; Saunders and Oland, JJ.A.

Appeal Heard:

September 9, 2003, in Halifax, Nova Scotia

Written Judgment:

September 10, 2003

Held:

Appeal is allowed without costs, per oral reasons for judgment of Glube, C.J.N.S.; Saunders and Oland, JJ.A. concurring.

Counsel:

Andrew S. Nickerson, Q.C. for the appellant
Donald Fraser, for the respondent

Reasons for judgment:

[1] Based upon the evidence presented at trial, we see no reversible error in the manner in which the trial judge disposed of this case, except for a minor omission, namely, providing a final date for disposing of the fishing businesses.

[2] In light of the fact that the respondent's date of birth is July 20, 1941, and his evidence "that he would like to continue as a fisherman until age 65", we would amend the corollary relief judgment by deleting s. 2(b) and substituting the following:

2(b) The respondent shall sell the assets of the said fishing businesses on or before December 31, 2006, and upon such sale shall pay to the petitioner 30% of the net proceeds of the sale.

[3] In all other respects, the corollary relief judgment is confirmed.

[4] The appeal is allowed without costs.

Glube, C.J.N.S.

Concurred in:

Saunders, J.A.

Oland, J.A.