

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Pier 99 Products Ltd. v. Bank of Nova Scotia*, 2004 NSCA 6

**Date:** 20040113

**Docket:** CA 292464

**Registry:** Halifax

**Between:**

Pier 99 Products Limited

Appellant

v.

The Bank of Nova Scotia

Respondent

**Judges:**

Roscoe, Cromwell and Hamilton, JJ.A.

**Appeal Heard:**

January 13, 2004, in Halifax, Nova Scotia

**Written Judgment:**

January 14, 2004

**Held:**

**Appeal dismissed per oral reasons for judgment of Cromwell, J.A.; Roscoe and Hamilton, JJ.A. concurring.**

**Counsel:**

Alan V. Parish, Q.C., for the appellant  
Stephen Kingston and Rebecca Pitts, for the respondent

Reasons for judgment:

[1] This is an appeal from a decision of Scanlan, J. which is now reported at (2003), 214 N.S.R. (2d) 306. The facts are fully set out in the decision and need not be repeated here.

[2] Only one issue is raised on appeal and therefore it is not necessary for us to comment on any other aspects of the decision. That single issue is whether the mortgagor retained an exigible interest in land at the time Pier 99 registered its Certificate of Judgment.

[3] Scanlan J. held, primarily on the basis of **Pew v. Zinck**, [1953] 1 S.C.R. 285 that where, as here, the Certificate of Judgment was registered after both the order of foreclosure, sale and possession in the form employed here, and the Sheriff's Sale and where the buyer at the Sheriff's sale subsequently completed the purchase according to the terms of the sale, there was no exigible interest in land remaining in the mortgagor at the time of registration of the Certificate of Judgment. In spite of Mr. Parish's very able arguments, we agree with this conclusion and, accordingly, dismiss the appeal with costs fixed at \$1,000.00 inclusive of disbursements.

Cromwell, J.A.

Concurred in:

Roscoe, J.A.

Hamilton, J.A.