

NOVA SCOTIA COURT OF APPEAL

**Citation: *Sheetharbour Offshore Development Inc. v. Tusket Mining Inc.*,
2007 NSCA 59**

Date: 20070511

Docket: CA 258749

Registry: Halifax

Between:

Tusket Mining Incorporated, a body corporate

Appellant

v.

Sheetharbour Offshore Development Inc.,
a body corporate

Respondent

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: May 11, 2007

Subject: Interlocutory injunction. Real property. Specific performance. **Statute of Frauds**, R.S.N.S. 1989, c. 442. Serious question. Irreparable harm. Balance of convenience. Standard of review.

Summary: The appellant owns lands at Sheet Harbour, N.S. A Chambers judge, on application by the respondent, had enjoined the appellant from selling a 100 acre parcel to a third party. In its law suit the respondent claims damages and specific performance of an agreement of purchase and sale, coupled with execution and delivery of a deed conveying title to the 100 acres.

The appellant appealed, asking that the Chambers judge's decision be reversed and the injunction lifted.

Held: Appeal dismissed. The Chambers judge carefully assessed the evidence, conducted a proper but necessarily extremely limited

review of the case on the merits, and applied the law correctly in answering all three branches of the test in **RJR-MacDonald Inc. v. Canada (Attorney General)**, [1994] 1 S.C.R. 311. None of his findings, or inferences drawn from those findings, were the result of palpable and overriding error. **Housen v. Nikolaisen**, [2002] 2 S.C.R. 235.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 4 pages.