

CASE NO.**VOLUME****PAGE**

Cite as: Vansnick v. Bank of Nova Scotia, 1998 NSCA 110

RICHARD A. VANSNICK, PAULA E.
IRVING AND WILLIAM ROY SMITH

THE BANK OF NOVA SCOTIA

- and -

(Appellants)

(Respondent)

C.A. No. 143948

Halifax, N.S.

Freeman, J.A.
(Orally)**APPEAL HEARD:**

May 19, 1998

JUDGMENT DELIVERED:

May 19, 1998

WRITTEN RELEASE OF ORAL:

May 22, 1998

SUBJECT: Civil Procedure; Want of Prosecution; Civil Procedure Rule 28.13

SUMMARY: The respondent Bank of Nova Scotia obtained a consent judgment on a letter of credit against Richard M. VanSnick, then brought another action against him and the appellants, claiming he had previously made conveyances of his real and personal property to them without consideration to defeat creditors. The letter of credit had permitted Mr. VanSnick to participate as a Canadian "name" of Lloyds of London. Lloyds had demanded payment and collected from the Bank. The Bank delayed proceeding from 1992 until early 1997 at Mr. VanSnick's request to await the outcome of litigation in Ontario involving Lloyds' names in that province. The appellants, asserting the delay had not been for their benefit, applied under Civil Procedure Rule 28.13 for dismissal of the Bank's case for want of prosecution. They have appealed the dismissal of that application.

ISSUES: Was the delay inordinate; did the appellants suffer prejudice?

RESULT: The appeal was dismissed with costs of \$750 inclusive of disbursements. In the absence of wrong principles or injustice, this court will not interfere with a discretionary order in an interlocutory matter: **Global Petroleum Corp. et al. v. C.B.I Industries et al.** (1997), 158 N.S.R. (2d) 201 (C.A.)

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 3 pages.

