

SUPREME COURT OF NOVA SCOTIA

Citation: Burrell v. Nova Scotia (Attorney General), 2004 NSSC 249

Date: 041126

Docket: SN 105675

Registry: Sydney

Between:

Lawrence D. Burrell

Plaintiff

- and -

The Attorney General of the Province of Nova Scotia

Defendant

- and -

2095891 Nova Scotia Limited

Defendant

LIBRARY HEADING

Judge: The Honourable Justice Suzanne M. Hood

Heard: June 7-10, 2004, in Sydney, Nova Scotia

Written Decision: November 26, 2004

Subject: Quieting of Titles

Summary: Lawrence Burrell claims title, pursuant to the *Quieting of Titles Act*, to lands off Kings Road in Sydney River. 2095891 Nova Scotia Limited claims title to part of the same lands, over a part of which they have a deeded right-of-way. The Company also disputes the granting of a certificate of title to Lawrence Burrell for the remaining lands.

Issue:

1. Should Lawrence Burrell be granted a certificate of title to the lands?
2. Should 209859 Nova Scotia Limited be granted a right-of-way over all the lands adjacent to those over which it has a deeded right-of-way?

Result: Claim of plaintiff dismissed. Gap in evidence of possession. Use of one parcel was also sporadic, slight and seasonal. Use of other parcel, over which corporate defendant had a deeded right-of-way, not sufficient to gain title by possession.

Possession not adverse to true owner when he was residing with person through whom claim is made on lands with which subject lands said to be used.

