

SUPREME COURT OF NOVA SCOTIA

Citation: *Patten v. Hants Realty Ltd.*, 2015 NSSC 349

Date: 2015-12-02

Docket: HFX No. 322089

Registry: Halifax

Between:

Robert Patten and Anita Patten

Plaintiffs

- and -

Hants Realty Limited and Hermiena Murphy

Defendants

- and -

Larry Matthews

Third Party

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Judge: The Honourable Justice Allan P. Boudreau

Heard: November 2, 3, 4, 5, and 10, 2015, in Halifax, Nova Scotia

Written Decision: December 2, 2015

Subject: Real Estate Agents and Brokers - Negligence - Negligent Misrepresentation - Breach of Contract - Damages

Summary: This case involves the purchase of a residential property which turned out to have an inadequate source of domestic water. The purchasers of the property, Robert Patten and his wife, Anita Patten, have sued the real estate agent, Hermiena Murphy, and the

brokerage with which she was associated, Hants Realty Limited, alleging negligence, misrepresentation and breach of contract. The Plaintiffs claim extensive damages (primarily attempts to drill wells and the purchase of water) from the time they moved into the property in 2005, to the present. A period of some ten years

Issue:

- (1) Was Ms. Murphy negligent in her dealings with the Pattens?
- (2) Has Ms. Murphy breached her contractual obligations to the Pattens pursuant to the Limited Dual Agency Agreement?
- (3) If the answer to Issue No. 2 is yes, then is Hants Realty liable by virtue of its relationship with Ms. Murphy and/or by virtue of its duties as the “broker” under which Ms. Murphy carried on her business as a Real Estate Agent?
- (4) If the answer to Issues No. 2 and/or No. 3 is yes, then what are the damages which were caused as a result of such negligence or breaches of duty?

Result:

Found Not liable in Negligence, Negligent Misrepresentation or Contract. In any event, would have significantly limited the damages claimed to reduced market value of the property and 1 ½ years of water purchases.

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