

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Doucette v. Hache, 2010 NSSC 299

Date: 20100727

Docket: SFHMCA-062907

Registry: Halifax

Between:

Marie Sylvia Doucette

Petitioner

v.

Joseph Yvon Hache

Respondent

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Judge: The Honourable Justice Mona M. Lynch

Heard: April 9 & June 29, 2010 in Halifax, Nova Scotia

Subject: Family, Common-law relationships, Ownership of Lottery Winnings, Unjust Enrichment, Spousal Maintenance,

Summary: Parties lived together for eight and one-half years. During the relationship the male party purchased a lottery ticket which won \$50,000 and placed it in a joint bank account. The winnings were used for the down payment on a house and vacant lot. The lot was placed in the female party's name and house property was placed in the male party's name. The parties separated and the male party remained in the house. The female party was awarded interim spousal maintenance.

Issue: Are the lottery winnings a joint asset? Would there be an unjust enrichment if both parties retained the property in their name. Should the male party's application be heard despite his failure to pay the interim spousal maintenance? If there is unjust enrichment what is appropriate remedy? Should there be an award for continued spousal maintenance?

Result:

The lottery winnings are not a joint asset. The parties maintained separate finances. Although the lottery winnings were placed in a joint bank account, the male party maintained control over the lottery winnings. There would be unjust enrichment if both parties retained the property in their name. The male party's application was heard despite his willful disregard for the interim spousal maintenance order. A monetary award was adequate for the female party. A constructive trust was necessary to compensate the male party and the vacant lot is to be transferred into his name. Transitional spousal maintenance was ordered for two years from the date of separation.

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