

SUPREME COURT OF NOVA SCOTIA
Citation: Goddard v. Hambleton, 2004 NSSC 237

Date: 20041202
Docket: S.T. 07392 (191619)
Registry: Truro

Between:

Charles Goddard

Plaintiff

v.

Myrna Hambleton

Defendant

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Judge: The Honourable Justice C. Richard Coughlan

Heard: August 23, 24, 25 and 26, 2004 in Truro, Nova Scotia

Written Decision: December 2, 2004

Subject: Unjust enrichment - Constructive Trust - Resulting Trust

Summary: The plaintiff and defendant had a common-law relationship. The defendant purchased real property. The plaintiff contributed money toward the purchase. The defendant started a cat kennel business. The plaintiff constructed kennels and made renovations to the property. The defendant paid for the majority of materials used. The parties terminated their relationship. The defendant sold the property and business.

The plaintiff claims a constructive or resulting trust in the value of the property and, in the alternative, damages for unjust enrichment for the value of the monies invested in the real property and value of the renovations and construction he performed.

Issue: Has the plaintiff established his claim of unjust enrichment?

If a claim of unjust enrichment has been proved, is this a case in which a constructive or resulting trust arises?

Result:

The plaintiff has established his claim for unjust enrichment. This is not a case in which a constructive trust arises as the plaintiff can be adequately compensated by a monetary award.

The necessary common intention is not present to give rise to a resulting trust.

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