

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Harrington v. Coombs, 2011 NSSC 34

Date: 2011 01 28

Docket: SFHPA-071113

Registry: Halifax

Between:

Bradley Harrington

Applicant

v.

Laurie Coombs

Respondent

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Judge: The Honourable Justice Leslie J. Dellapinna

Heard: January 14, 2011 in Halifax, Nova Scotia

Subject: The division of assets between common-law partners and an application for spousal maintenance under the *Maintenance and Custody Act*.

Summary: The parties lived in a common-law relationship from February 21, 2003 to November 2009. During their relationship they had two children who were five and four years of age as of the date of trial. Prior to living together the common-law husband had the common-law wife sign a cohabitation agreement prepared by his lawyer. She read the Agreement, declined an offer to consult with her own lawyer and signed it.

The parties agreed on the parenting arrangements with respect to the children as well as child support. They could not agree on the division of assets or spousal maintenance. The common-law wife sought to have the cohabitation agreement set aside.

Issues:

1. The effect of the parties' Cohabitation Agreement.
2. Whether the common-law wife was entitled to any portion of the common-law husband's employment pension with the Canadian Forces?
3. Was either party entitled to any relief as a result of unjust enrichment?
4. Was the common-law wife entitled to any spousal maintenance.

Result:

The cohabitation agreement was upheld. On behalf of the common-law wife it was argued that the Agreement should be set aside because of changes in circumstances that have occurred during the course of the parties' relationship, because the Agreement was unduly harsh and because the common-law wife was subject to the undue influence of the common-law husband at the time the Agreement was signed. The arguments on behalf of the common-law wife were not supported by the evidence. Therefore the equity in the parties' jointly owned home was divided equally between the parties' pursuant to the *Partition Act*. The common-law wife was given an opportunity to arrange financing to buy out the common-law husband's interest. Neither party was entitled to an unequal division as a result of unjust enrichment and the wife's claim for an interest in the common-law husband's employment pension was also denied.

It was held that the common-law wife was not entitled to periodic or lump sum maintenance. A comparison of their incomes and expenses did not justify spousal maintenance and a request for lump sum support was denied as it was merely an effort to obtain via spousal maintenance a division of assets to which she was not otherwise entitled.

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