

SUPREME COURT OF NOVA SCOTIA

Citation: Concentra Financial Services Association v. MacKay, 2012 NSSC 333

Date: 20120802

Docket: Hfx No. 356543

Registry: Halifax

Between:

Concentra Financial Services Association

Plaintiff

and

David Douglas MacKay

Defendant

DECISION

Judge: The Honourable Justice Gerald R. P. Moir

Heard: August 2, 2012

**Oral Decision Transcribed,
Edited, and Signed on** September 25, 2012

Counsel: Joe McNally, for plaintiff

David Douglas MacKay, on his own

Moir J. (Orally):

[1] Mr. MacKay's allegation that the property manager broke into the premises is not supported by any evidence before me and it is likely based on the evidence I do have that they simply exercised the mortgagee's right to take possession which was granted to them by Mr. MacKay when he signed the mortgage.

[2] As regards the charges, I have reviewed them and they seem to me to be appropriate.

[3] His greatest concern as Mr. McNally says is that the property was worth more than it sold for. First off, I believe it is settled law that once a mortgagee buys the mortgaged property at a sheriff's sale, the mortgagee owes no duty of care to the mortgagor. No duty to get a fair price.

[4] Secondly, I am satisfied based on the evidence that is before me that the mortgagee, through its property management company, saw to it that there was a fair exposure of the property on the market and the evidence satisfies me that it did achieve market value.

[5] Therefore, I will grant the order for a deficiency judgment.

J.