

SUPREME COURT OF NOVA SCOTIA

Citation: MacKay v. MacKay Estate, 2013 NSSC 116

Date: 20130402

Docket: Probate file Bwt. 14515

Registry: Bridgewater

Between:

Richard W. MacKay

Appellant

- and -

Estate of Marion Phyllis MacKay, deceased
as represented by personal Representative, Mary Ann Eisner

Respondent

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Judge: The Honourable Justice C. Richard Coughlan

Subject: Probate - Claim against Estate - Unjust Enrichment and Quantum Meruit

Summary: A nephew claimed against his aunt's estate for the value of services provided to her. The nephew said he was promised he would receive her real property upon her death in exchange for his assistance to her. No provisions was made for nephew in deceased's will.

Issue: Did the claimant have a claim on the basis of unjust enrichment or quantum meruit?

Result: Claim dismissed. The claimant exaggerated the work he did for his aunt. The aunt offered to pay him for the work he did. A niece was the person looking after the deceased during the last years of the deceased's life.

Although the claimant provided services to the deceased and had a corresponding deprivation there was a juristic reason for the claimant's actions - a donative intent. The claimant did not have a claim based on unjust enrichment. Nor on the facts was there a claim of quantum meruit.

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