

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Matthews v. Matthews, 2004 NSSC 7

Date: 20031125

Docket: 1201-49862

Registry: Halifax

Between:

Margaret Rose Matthews

Petitioner

v.

James Michael Matthews

Respondent

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Judge: The Honourable Justice Walter R. E. Goodfellow

Heard: November 25th, 2003 in Halifax

Written Decision: January 14th, 2004

Subject: ***DIVORCE AND MATRIMONIAL PROPERTY ACT***

Summary: Divorce Petition issued July 25th, 1995; dormant until prodded by Prothonotary. Time of hearing pluses and minuses. All three children now no longer such under the *Divorce Act*. Separated since 1994, no Order as to child support or spousal support.

Issues:

1. Period of pension benefits division.
2. Disposal costs - matrimonial home retained by Mr. Matthews.
3. Life insurance.
4. Costs

Result: Period of pension benefits division to be for total period of cohabitation; ten years pre-marriage cohabitation and twelve years of marriage cohabitation. *Pension Benefits Act* does not supercede or amend *MPA* and presumption of equal entitlement of a matrimonial asset pursuant to the *MPA* prevails. Disposal costs. Followed general practice of discounting equity by real estate commission and legal fees as such almost always inevitable. *Robski v. Robski* (1997), 166 N.S.R. (2d) 161; *O'Regan v. O'Regan* (2001), 194 N.S.R. (2d) 257. Life insurance. Payments by Mr. Matthews post-separation non-matrimonial;

however, value of life insurance at time of separation plus accumulated interest to time of division a matrimonial asset subject to equal division. Costs. Mr. Matthews self-represented for a period of time contributed to delay, etc. Some costs allowance to Mrs. Matthews appropriate. *Gilfoy et al v. Kelloway* (2000), 184 N.S.R. (2d) 226.

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