

SUPREME COURT OF NOVA SCOTIA

Citation: 101252 P.E.I. Inc. v. Brekka, 2013 NSSC 289

Date: 20130919

Docket: Hfx No. 413840
and Hfx No. 413842

Registry: Halifax

Between:

101252 P.E.I. Inc., a body corporate

Plaintiff

v.

Betty Ann Brekka

Defendant

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Judge: The Honourable Justice Michael J. Wood

Heard: September 11, 2013, in Halifax, Nova Scotia

Written Decision: September 19, 2013

Subject: *Statute of Frauds* - Part Performance
Civil Procedure - Enforcement of Settlement Agreements

Summary: The defendant alleged that an oral agreement was reached with the plaintiff to postpone a foreclosure sale in order to allow her time to obtain financing. The plaintiff denied that any agreement was reached and the sale took place as scheduled.

The plaintiff subsequently received approval for the

financing and made a motion to require the plaintiff to reconvey the property to her in exchange for payment of the amounts allegedly agreed to.

Issue: Does the *Statute of Frauds* apply and, if so, was there part performance by the defendant?

Result: The Statute does apply and the efforts to obtain financing were not sufficiently referable to the alleged agreement to constitute part performance. The Court went on to consider the evidence and held that the plaintiff had not proven a binding oral agreement in any event.

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