

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: *MacDonnell v. MacDonnell*, 2005 NSSC 182

Date: 20050627
Docket: S.T. 1207-002579 (032879)
Registry: Truro

Between:

Gerald Michael MacDonnell

Petitioner

v.

Michelle Christine MacDonnell

Respondent

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Judge: The Honourable Justice Walter R.E. Goodfellow

Heard: June 6, 2005 in Truro, Nova Scotia
June 27, 2005 in Halifax, Nova Scotia

Written Decision: June 28, 2005

Subject: Validity of marriage/reconciliation contract

Summary: The parties commenced cohabitation in 1987 - two children, the first born 1988, the second child in 1991. The parties married October 21, 1993 and separated briefly January 1997. Separation agreement turned into a marriage/reconciliation contract followed by further cohabitation to February 2004. The separation agreement term providing lump sum of \$10,000 to Mrs. MacDonnell in return for deed to matrimonial home incorporated in marriage/reconciliation contract and equity in matrimonial home at the time of final separation in excess of \$100,000. Although Mrs. MacDonnell had independent advice recommending against execution of the agreement she did so however as only issue outstanding a property matter test to be applied is s. 29 of the *Matrimonial Property Act*.

Issue: Was the marriage/reconciliation contract valid?

Result: Desperation on behalf of Mrs. MacDonnell to have children returned to the matrimonial home, non-disclosure, no negotiations, vulnerability of Mrs. MacDonnell results in marriage contract/reconciliation agreement being held invalid.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION
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