

**IN THE SUPREME COURT OF NOVA SCOTIA  
(FAMILY DIVISION)**

**Citation:** Gale v. Gale, 2008 NSSC 177

**Date:** 20080929

**Docket:** 1206-5226/48283

**Registry:** Halifax

**Between:**

Michael Gale

Petitioner

v.

Shirley Marie Gale

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Walter R.E. Goodfellow

**Heard:** June 4, 5, 16, September 18, 2008 in Sydney, Nova Scotia

**Subject:** Divorce, Matrimonial Property Act, and Spousal Support

**Summary:** Second marriage. Husband now 68 and wife soon to be 59. Cohabited for a period prior to marriage and total period of cohabitation slightly over eight (8) years. Final separation June 6, 2006 and although limited resources and assets, parties had total inability to agree on almost anything resulting in conflicting and often very unsatisfactory evidence on numerous aspects of their relationship.

**Issue:** 1) Matrimonial Property Act  
2) Spousal Support

The parties had generous arrangement whereby they were to secure a property on monthly payments that probably didn't cover marketable rent and after thirty-one (31) months separated. Previous property left vacant and with no fire insurance. Direction at trial to dispose of previous matrimonial home at first agreed upon by wife, then she declined, then agreed and husband purchased out her interest.

Wife attended at property post-agreement causing damage to the door and removing two interior French stained doors and rather than order their return ordered wife to pay full replacement value in damage.

Evidence with respect to furniture and chattels so unsatisfactory, Court unable to make any determination. Parties waited until trial before securing a letter determining whether life insurance had cash surrender value. Necessary to determine whether special arrangement constituted a property interest in the parties. They occupied it as a matrimonial home for approximately thirty-one (31) months and wife then executed a deed with spousal affidavit saying that it was never occupied as a matrimonial home.

**Result:** Fixed value of parties interest in the property prior to transfer to wife's daughter at twenty-two and one-half (22 ½) percent of bargain value discounted for practical reasons to twenty (20) percent.

Final order required wife to reimburse husband \$9,093.27 and if not reimbursed within 45 days deed by wife and friend to her daughter to be set aside and parties to return for directions for sale notice etc.

Circumstances did not warrant spousal support.

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