

IN THE SUPREME COURT OF NOVA SCOTIA

**Citation:** N.S. Farm Loan Board v. Noggins Corner Farm Ltd 2003 NSSC 055

**Date:** 20030307

**Docket:** S.K. 185520

**Registry:** Kentville

**Between:**

Nova Scotia Farm Loan Board

Applicant

v.

Noggins Corner Farm Limited

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Allan P. Boudreau

**Heard:** September 19, 2002, in Kentville, N.S.

**Subject:**

- Real Property - Agreements of Sale (Long Term)
- Equitable Interests in Land - Creditor/Debtor
- Attachment and Execution Against Equitable Interests

**Issue:** Can judgment creditors attach and execute against the interest of purchasers of land under long term Agreements of Sale?

**Summary:** The Nova Scotia Farm Loan Board (“the Board”) entered into one of its usual Agreements of Sale with one Jerry John de Graaf providing for the long term purchase of farm property. This agreement was not recorded at the Registry of Deeds. As is also not uncommon, the purchaser, Mr. de Graaf, defaulted on the agreement and the Board subsequently put the property up for resale by public tender. Before the lands were resold, two farm suppliers had recorded judgments totalling some \$71,000.00 against Mr. de Graaf. The new purchaser by tender,

Noggins Corner Farm Limited, (“Noggins”) raised an objection to title on the basis of the prior judgments recorded against Mr. de Graaf. The Board made the current application under the **Vendors and Purchasers Act**, R.S.N.S. 1989, c. 487 to have the Court determine the validity of Noggins’ title objection. This case raises the issues of the nature of the rights of Mr. de Graaf and of the recorded judgment creditors in case of default by a purchaser under such an Agreement of Sale, and the procedure to be followed by the Board in terminating any rights which may accrue to the original purchaser or the subsequent registered judgment creditors.

**Result:**

**The Court rejected the title objection of the new purchaser and ruled that judgment creditors’** rights do not attach to the land itself under long term Agreements of Sale with the N.S. Farm Loan Board.