

NOVA SCOTIA COURT OF APPEAL

Citation: Snow v. Marsh, 2004 NSCA 155

Date: 20041230

Docket: CA 220008

Registry: Halifax

Between:

Jean Marie (Churney) Marsh

Appellant

v.

Sheldon W. Snow

Respondent

Judge:

The Honourable Justice Nancy Bateman

Appeal Heard:

November 18, 2004

Subject:

Common law relationship - claim for unjust enrichment and constructive trust.

Summary:

The parties were in a 13 year common law relationship. During that time both deposited their earnings to a joint bank account. The "husband" significantly out-earned the "wife". During the relationship the wife entered into a rent to purchase arrangement for her mother's home. The home was paid for from the joint bank account, but the deed taken only in the wife's name. The purchase price was somewhat below the assessed value. At separation the wife retained the home and contents and the husband the vehicles. The husband sought some compensation for his interest in the home. The parties could not agree on the amount. The husband sued claiming unjust enrichment and the remedy of constructive trust. The total pool of assets was valued at \$51,900 of which the husband had retained \$8,000 in

value. The judge awarded the claimant husband a 40% interest in the home, vehicles and furniture requiring a payment by the wife to the husband. The wife appealed.

Issue: Did the judge err in finding an unjust enrichment that should be remedied through a constructive trust?

Result: Appeal dismissed. The key factual findings made by the judge were supported on the record. He did not err at law in the manner in which he applied the principles in **Peter v. Beblow**, [1993] 1 S.C.R. 980, basing the husband's recovery on the "value surviving" approach.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 9 pages.