

CASE NO.

VOL. NO.

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LOIS MARIANNE CROITER

- and -

ANDREW GEORGE CROITER

(Appellant)

(Respondent)

ca 164975

Halifax, N.S.

HALLETT, J.A.

[Cite as: **Croiter v. Croiter, 2001 NSCA 37**]

APPEAL HEARD:

February 1, 2001

JUDGMENT DELIVERED:

February 14, 2001

SUBJECT:

Pension Benefits Division Act, S.C. 1992, c. 46, Sch. II.
Matrimonial Property Act, R.S.N.S. 1989, c. 274

SUMMARY:

In 1999 an application was made to the Supreme Court of Nova Scotia pursuant to the **Pension Benefits Division Act** to make a division of the pension benefits of a member of the Canadian Armed Forces. The parties had been divorced in 1985. The order of the New Brunswick Court did not provide for a division of the member's pension benefits.

A judge of the Supreme Court of Nova Scotia held that he did not have jurisdiction to order the division sought. The former spouse appealed.

The appeal was dismissed. The Court of Appeal held that the **Pension Benefits Division Act** simply provided a mechanism that enables the Minister to divide the pension benefit of a member of such a plan if an order is made in proceedings in relation to divorce annulment or separation.

Pension benefits of members of pension plans to which the **Act** applies are matrimonial assets. The jurisdiction of a judge of the Supreme Court of Nova Scotia to make a division of matrimonial assets arises from ss. 12 and 13 of the **Matrimonial Property Act**, R.S.N.S. 1989, c 275. It is under the **Matrimonial Property Act** that an application for the division of such pension benefits is made. In ordering a division of the pension benefits of a member of the Armed Forces, a judge of the Supreme Court of Nova Scotia does not exercise jurisdiction pursuant to the **Pension Benefits Division Act**.

Justice Wilson did not err in finding that he did not have jurisdiction under

the **Pension Benefits Division Act** to make an order for division of pension benefits.

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 7 pages.